

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
KENTUCKY-AMERICAN WATER COMPANY)	CASE NO.
FOR TARIFF APPROVAL)	2017-00313

**ATTORNEY GENERAL'S RESPONSE TO
COMMISSION ORDER AND MOTION FOR A
PROCEDURAL SCHEDULE**

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and hereby responds to the Commission's August 4 Order and moves for a procedural schedule for this matter. The Attorney General certifies that: (a) the Office of the Attorney General and its agents are capable of receiving electronic transmissions; and (b) that the electronic mail addresses to which all electronic notices and messages related to the above-styled proceeding should be served are provided below signature line. In support of his Motion for a Procedural Schedule, the Attorney General states as follows:

The Application, which was filed by Kentucky-American Water Company ("KAW" or "Company") on August 4, 2017, is for a Qualified Infrastructure Program Rider, or "QIP." Company witness Linda Bridwell notes that KAW is proposing the QIP to support the replacement of aging infrastructure.¹ As justification for the QIP, Ms. Bridwell's testimony states that "[w]ithout the QIP, the Company will suffer earnings erosion as capital costs . . . goes unrecovered until the completion of a general rate proceeding."²

¹ *In the Matter of: The Application of Kentucky-American Water Company for a Qualified Infrastructure Program Rider*, Case No. 2017-00313, Direct Testimony of Linda C. Bridwell, P.E. ("Bridwell Testimony"), p. 3, (Ky. P.S.C. August 4, 2017).

² Case No. 2017-00313, Bridwell Testimony, p. 4.

While styled as a tariff change, the proposed rider will impact customer bills as the Company alters the way it recovers costs. The Attorney General is aware of a recent Order from the Commission discussing the interplay between investment and the recovery of costs. In that discussion, the Commission noted that:

[i]n any proceeding involving an investigation of utility rates, the Commission must fully consider and weigh the totality of the evidence to determine its credibility and then apply its ratemaking expertise, including the judgement as to current and anticipated economic conditions, to make an independent determination regarding a rate of return that is fair, just, and reasonable.³

Since the proposed QIP will have a long-term effect on rates, it is important that the Commission follow its above-stated philosophy in the current case. The Application and tariff at hand, if approved, will cause rates for customers of the Company to increase.⁴ Although the Company considered riders and other recovery mechanisms used by Kentucky gas companies in developing its proposed program, a tariff of this nature is novel in Kentucky.⁵ Gas companies in Kentucky are afforded the recovery of costs for investment in natural gas pipeline replacement programs pursuant to KRS 278.509, and the Commission has previously noted that, “the accelerated gas main tariff riders were allowed for safety concerns and the main replacements were for a defined accelerated replacement period.”⁶

Due to the novel, extensive and on-going nature of the Company’s proposal, an investigation into the proposed rider is necessary. The Attorney General believes that the opportunity to conduct discovery, provide testimony, and participate in a hearing will provide

³ Order, *In the Matter of: Electronic Joint Application of PNG Companies LLC, Drake Merger Sub Inc., and Delta Natural Gas Company, Inc. for Approval of an Acquisition of Ownership and Control of Delta Natural Gas Company, Inc.*, Case No. 2017-00125, p. 3 (Ky. P.S.C. August 3, 2017).

⁴ See, Case No. 2017-00313, Bridwell Testimony, p. 3, stating, “The Company’s proposed QIP rider would produce additional revenues of approximately \$1,663,356 for 2018.”

⁵ Case No. 2017-00313, Bridwell Testimony, p. 12.

⁶ Order, *In the Matter of: Application of Kentucky-American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year*, Case No. 2012-00520, p. 62, (Ky. P.S.C. October 25, 2013).

diverse and useful information, which will aid the Commission in considering the tariff and Application. Given the magnitude of spending and rate increases that the Company expects to employ over, at minimum, the next twenty-five years, the public interest supports a heightened scrutiny such as would be given to a rate case.⁷ Absent a safety or statutory mandate otherwise, the Attorney General believes that a full procedural schedule to explore the Company's claims is necessary to determine if the Company's proposed accelerated recovery is a necessity, or merely desirable.

The Company notes that it has made similar requests in the past for the Commission to approve a QIP rider, which have either been denied or withdrawn.⁸ As in previous cases, the Company has noted that the basis for the QIP stems from the need for accelerated infrastructure replacement, coupled with the Company's desire to reduce the impact of regulatory lag.⁹ The Company renews its argument that the rider will "improve the ability to attract the capital necessary to carry out an infrastructure replacement program..." but again does not provide evidence that the Company is currently unable to attract the needed capital for those projects.¹⁰ Instead, the Company simply asserts that "The best way to ensure that optimal levels of capital are consistently available is through predictable and timely recovery of investments and the return on capital devoted to serving customers' needs."¹¹

⁷ See, Case No. 2017-00313, Direct Testimony of Brent E. O'Neill, P.E. ("O'Neill Testimony"), p 16, 20, which estimates an expected cost of spending at \$6.9 to 12.6 million a year over a 25-year replacement period, with yearly expenditures reaching \$18 million by 2037 (Ky. P.S.C. August 4, 2017).

⁸ Case No. 2017-00313, Bridwell Testimony, p. 9-10.

⁹*Id.*, p. 4, p. 12.

¹⁰ Case No. 2017-00313, Bridwell Testimony, p 7. See also, *In the Matter of: Application of Kentucky-American Water Company for an Adjustment of Rates*, Case No. 2015-00418, Direct Testimony of Andrea C. Crane ("Crane Testimony"), p. 64, noting that nothing in that case demonstrated that either the Company or its parent company had difficulty attracting capital to fund infrastructure projects (Ky. P.S.C. May 9, 2016).

¹¹ Case No. 2017-00313, Bridwell Testimony, p. 7.

Although the rationale and policy considerations regarding a QIP rider may seem familiar from the previous cases, this specific proposal is new and unique, and all stakeholders will benefit from the opportunity to examine this Application thoroughly through discovery and a hearing. Should the Commission grant the Motion for a Procedural Schedule, the Attorney General looks forward to supplementing the record with evidence, including the availability of a fully forecasted test year and its effect on the Company's regulatory lag, particularly in light of the Commission's recent statements on the timely recovery on investment.¹² Additionally, in the event that accelerated replacement is found necessary, the Attorney General requests the opportunity to provide testimony, or participate in a hearing, demonstrating that accelerated replacement is possible without allowing the QIP rider.¹³

WHEREFORE, the Attorney General requests a procedural schedule to be set in this matter, including the opportunity for discovery, intervenor testimony, and a hearing.

¹² See, Order, Case No. 2017-00125 p. 3, (Ky. P.S.C. August 3, 2017), wherein the Commission stated, "the timeliness of the return on investment is dependent on many factors, including the timeliness of the applicant's request for rate recovery and the statutory provisions set forth in KRS Chapter 278."

¹³ Case No. 2015-00418, Crane Testimony, p. 61, "[i]t is critical for the Commission to recognize that the implementation of an accelerated investment program does not necessarily require the implementation of an accelerated cost recovery mechanism."

Respectfully submitted,

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