

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-	)	
AMERICAN WATER COMPANY FOR AN	)	
ADJUSTMENT OF RATES, A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY FOR	)	CASE NO.
INSTALLATION OF ADVANCED METERING	)	2023-00191
INFRASTRUCTURE, APPROVAL OF	)	
REGULATORY AND ACCOUNTING	)	
TREATMENTS, AND TARIFF REVISIONS	)	

ORDER

On July 14, 2023, Kentucky-American Company (Kentucky-American) filed a motion for a ruling from the Commission regarding the sufficiency of its application regarding the filing deficiency that was cured on July 7, 2023. In its motion, Kentucky-American maintained that the filing date for its application should be June 30, 2023, the day the application was tendered to the Commission. Kentucky-American's application included, among other things, request for Commission approval of a Certificate of Public Convenience and Necessity (CPCN) to construct and install an advanced metering infrastructure (AMI) system.

LEGAL STANDARD

Commission regulation 807 KAR 5:001, Section 3(2) states that the Commission's Executive Director shall reject for filing a document that on its face does not comply with 807 KAR Chapter 5.

Commission regulation 807 KAR 5:001, Section 15(2)(f) requires an application for a CPCN for new construction to include “[a]n estimated annual cost of operation after the proposed facilities are placed into service.”

### BACKGROUND

On June 30, 2023, Kentucky-American tendered its application for a CPCN for an AMI system and a rate adjustment, among other things. On July 7, 2023, under the signature of the Executive Director, the Commission issued a letter rejecting the application for filing because the application failed to meet the filing requirement in 807 KAR 5:001, Section 15(2)(f). The letter included an explanation why the filing was deficient: “Page 12 [paragraph 28] of the application provides the year 10 cost for AMI and the year 20 cost, but not the annual cost.”<sup>1</sup>

In its application, Kentucky-American stated:

Estimated Annual Cost of Operation. 807 KAR 5:001, Section 15(2)(f). In year 10, after nearly one full replacement cycle, the cost for AMI is forecasted to be \$3,873,858. In year 20, the cost for AMI is forecasted to be \$5,590,216. The costs net of benefits for AMI, for the same years respectively, are \$2,408,761 and \$3,073,234. Once meter reading benefits fully begin in year 11, the AMI cost net of benefits becomes and stays a least cost solution.<sup>2</sup>

On July 7, 2023, Kentucky-American filed a response to the deficiency letter. Kentucky-American asserted that the application as filed complied with the regulation, and also provided the annual costs of operation, beginning in year 2024 and continuing

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<sup>1</sup> Letter Rejecting Filing (Ky. PSC July 7, 2023).

<sup>2</sup> Application at paragraph 28.

through 2043. On July 7, 2023, a deficiency cured letter was issued stating that the application deemed filed as of July 7, 2023.

### KENTUCKY-AMERICAN'S MOTION

In its motion, Kentucky-American requested that the Commission rule on Kentucky-American's request that its application be deemed filed when it was tendered on June 30, 2023. As a basis for its motions, Kentucky-American argued that it complied with 807 KAR 5:001, Section 15(2)(f) because year 10 is when the proposed AMI system would be fully deployed and placed in service to all customers. Kentucky-American further argued that year 10 is the "nearly one full replacement cycle" with "replacement cycle" referring to the first year the AMI meters would be fully deployed. Kentucky-American asserted that "the most logical year of operating costs to provide to the Commission...is the first year the AMI would be fully 'placed in service.'"<sup>3</sup>

Kentucky-American further argued that a one-week delay in the filing date delays the effective date of new rates.

Finally, Kentucky-American alleged that the determination that July 7, 2023, was the filing date for the application was an arbitrary administrative action.

### DISCUSSION AND FINDINGS

The Commission notes that, regarding the effective date of new rates, Kentucky-American is the master of filing its application, including the filed date. Kentucky-American bears the risk of failing to file an application that meets all filing requirements and the consequences that occur if the application does not meet filing requirements.

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<sup>3</sup> Kentucky-American's Motion for a Ruling (filed July 14, 2023), unnumbered page 1.

The Commission also notes that Kentucky-American controls the language used in its application. Here, the Commission concludes that Kentucky-American used imprecise language in discussing a “full replacement cycle” in paragraph 28 of the application. Paragraph 20 of the application states that the AMI deployment plan is contained in Exhibit A to the application. However, paragraph 20 of the application does not define a “full replacement cycle” nor does Exhibit A, which is the AMI deployment plan. Nowhere in the application does Kentucky-American plainly state, using the language in the motion requesting a ruling, that year 10 is the first year in which AMI will be fully deployed, and thus is used as the starting point for the estimated annual cost of operations.

Upon a review of the application, the Commission determined that, other than paragraph 28, the term “replacement cycle” is referenced in the below sections of the application, most of which refer to pipeline replacement:

- Page 17 of Exhibit A to the application uses “replacement cycle” in the context of meter reading labor and benefits: “Benefits modeled to begin when the system is nearly fully converted to AMI after a full 10-year normal periodic replacement cycle.”
- Page 21 of Exhibit A to the application contains two references to “replacement cycle.” One reference repeats the language used in paragraph 28 of the application. The second reference states: “KAWC’s implementation of cellular AMI technology over the course of the next decade is in the long-term best interests of customers. The investments will be made as part of the normal periodic meter equipment replacement cycle, when meters and endpoints would normally be replaced anyway; thus, there will be no wasteful duplication. Further, replacing equipment with AMI as this

replacement cycle goes forward will enable significant enhancements in customer service, employee safety, and operational efficiency.”<sup>4</sup>

- PDF pagination 218 of 2367 of Exhibits 28-36: “The Company plans to invest between \$28 billion and \$32 billion over the next 10 years for capital improvements, including acquisitions, to its Regulated Businesses’ water and wastewater infrastructure, largely for pipe replacement and upgrading aging water and wastewater treatment facilities. The Company has proactively improved its pipe renewal rate from a 250-year replacement cycle in 2009 to an expected 110-year replacement cycle by 2026, which it anticipates will enable the Company to replace nearly 2,200 miles of mains and collection pipes between 2022 and 2026.”

- Application, Exhibits 28-36, page 393 of 2367 states: “The Company has proactively improved its pipe renewal rate from a 250-year replacement cycle in 2009 to an expected 110-year replacement cycle by 2027, which it anticipates will enable the Company to replace nearly 2,100 miles of mains and collection pipes between 2023 and 2027.”<sup>5</sup>

- Application, Exhibits 28–36, page 700 of 2367 states: “The Company plans to invest between \$28 billion and \$32 billion over the next 10 years for capital improvements, including acquisitions, to its Regulated Businesses’ water and wastewater infrastructure, largely for pipe replacement and upgrading aging water and wastewater treatment facilities. The Company has proactively improved its pipe renewal rate from a 250-year replacement cycle in 2009 to an expected 110-year replacement cycle by 2026,

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<sup>4</sup> Application, Exhibit A at 21.

<sup>5</sup> Application, Exhibits 28–36 at 393 of 2367. The Commission notes that these exhibits were filed as one PDF document and the header for each page references only Exhibit 28 and the page number.

which it anticipates will enable the Company to replace nearly 2,200 miles of mains and collection pipes between 2022 and 2026.”<sup>6</sup>

Based upon the motion, the case record, and being otherwise sufficiently advised, the Commission concludes that Kentucky-American failed to state with clarity in the application that it provided the estimated annual cost of operation after the proposed facilities are placed in service. It was not until subsequent filings on July 7, 2023, and July 14, 2023, that Kentucky-American stated plainly that the AMI system will be placed into service in year 10 of the project. There is nothing in the application or exhibits that would have clearly indicated Kentucky-American’s meaning when it used the term “full replacement cycle” instead of saying that the AMI facilities would be placed in service in year 10 of the project based upon the estimate that Kentucky-American will fully deploy AMI meters in year 10. For the reasons discussed above, the Commission finds that Kentucky-American’s request that its application be deemed filed on June 30, 2023, should be denied.

IT IS THEREFORE ORDERED that:

1. Kentucky-American’s request that its application be deemed filed on June 30, 2023, is denied.

2. Kentucky-American’s application is deemed filed on July 7, 2023.

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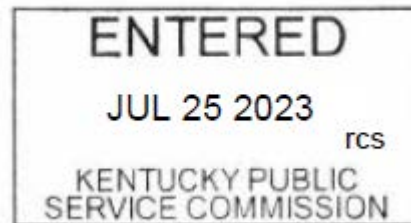
<sup>6</sup> Application, Exhibits 28–36 at 700 of 2367.

PUBLIC SERVICE COMMISSION

  
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