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October 30, 2026

RECEIVED
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PUBLIC SERVICE COMMISSION

Hon. Justin McNeil
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40602-0615

RE: LFUCG v. Kentucky-American Water Company
Amended Complaint
Case No. 2026-00249

Lexington-Fayette Urban County Government, by counsel, and pursuant to 807 KAR 5:001, Section 20, and in response to the Commission's October 12, 2026 Order, hereby submits its Amended Formal Complaint against Kentucky-American Water Company. The undersigned counsel certifies that the document submitted electronically is a true, accurate and complete representation of the original document.

Please contact me if you have any questions.

Very truly yours,

J.E.B. Pinney

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT	)	
COMPLAINANT	)	CASE NO. 2026-00249
V	)	
KENTUCKY-AMERICAN WATER COMPANY	)	
DEFENDANT	)	

RESPONSE TO OCTOBER 12, 2026 ORDER AND AMENDED COMPLAINT

Comes, Lexington-Fayette Urban County Government, ("LFUCG") by counsel, pursuant to KRS 278.030, KRS 278.040, KRS 278.160, KRS 278.200, KRS 278.260, KRS 278.270, KRS 67C, 807 KAR 5:001 Section 19, and 807 KAR 5:001 Section 20, and in response to the Public Service Commission's ("Commission") October 12, 2026 Order respectfully states as follows in its Amended Complaint:

Parties

1. Complainant, Lexington-Fayette Urban County Government (LFUCG), is an urban county government established under KRS Chapter 67A. Its address is 200 East Main Street, Lexington, KY 40507.

2. Defendant, Kentucky-American Water Company (KAWC) is a utility as defined in KRS 278.010(3)(d) and subject to the jurisdiction of the Public Service

Commission (Commission). KAWC's address is 2300 Richmond Road, Lexington, Kentucky 40502.

Relevant Facts

1. LFUCG is one of KAWC's largest customers and annually pays millions of dollars to KAWC for service. LFUCG takes service from KAWC under Commercial, OPA, Private Fire and Public Fire rates.[1] Thus, LFUCG is particularly sensitive to the recovery of unreasonable costs through KAWC's rates.

2. LFUCG has the following number and sizes of meters assigned to it: 5/8" Meter 76; 1" Meter 88; 1.5" Meter 6; 2" Meter 82; 4" Meter 6; 6" Meter 4; and 8" Meter 1.[2]

3. LFUCG is KAWC's largest customer of public fire hydrants. According to KAWC's most recent publicly available annual report on file with the Commission, over 90% of KAWC's public fire hydrants are billed to LFUCG.[3]

4. KAWC is engaged in the distribution and sale of water in its Central Division, consisting of Bourbon, Clark, Fayette, Harrison, Jessamine, Nicholas, Scott, and Woodford Counties; its Northern Division, consisting of Gallatin, Owen, Grant, and Franklin Counties; and the Southern Division, consisting of Rockcastle and

[1] *See,* Case No. 2026-00094, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, Approval of System Improvement Program, and Tariff Changes*, KAWC's Response to Lexington-Fayette Urban County Government's First Request for Information (filed June 26, 2026) at Response to 2(a).

[2] *Id.* at Response to 1.

[3] *See* 2024 Annual Report of Kentucky-American Water Company, Ref, Page 35. 7,346 of 8,272 public fire hydrants are in Fayette County.

Jackson Counties. KAWC has also received recent approval to distribute and sell water in Bell, Harlan, and Hickman Counties.

5. KAWC provides water service and occupies the rights-of-way in Fayette County pursuant to a franchise agreement executed on January 21, 2015,[4] and which was renewed for an additional five years on October 9, 2025.[5]

6. The current franchise agreement grants KAWC a non-exclusive easement for, "the privilege of constructing, erecting, laying, relaying, replacing, operating and maintaining a waterworks system upon, through, along, under and over the public streets, alleys, avenues, public roads, highways, sidewalks, and other public ways . . ." of LFUCG.

7. Over the past two years KAWC's construction practices in LFUCG's rights-of-way have been conducted unreasonably, causing inadequate and insufficient service, creating disruption to commerce and traffic, and damage to public and personal property.

8. KAWC's main replacement and main repair projects, and subsequent restoration, are conducted in unreasonable, unprofessional, and inadequate manners, causing confusion, delay, additional costs, and frequently exceeding projected completion dates.

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[4] LFUCG Ordinance No. 155-14, the ordinance and franchise agreement may be viewed here: https://psc.ky.gov/tariffs/Water/Districts,%20Associations,%20%26%20Privately%20Owned/Kentucky-American%20Water%20Company/Franchises/LFUCG/2016-01-21.pdf (Last visited Aug. 14, 2026).

[5] LFUCG Resolution No. 459-2024, the resolution may be viewed here: https://psc.ky.gov/tariffs/Water/Districts,%20Associations,%20%26%20Privately%20Owned/Kentucky-American%20Water%20Company/Franchises/LFUCG/2025-10-09%20Extension.pdf (Last viewed Aug. 14, 2026).

9. Due to unreasonable and inadequate project management, KAWC routinely fails to timely repair road surfaces after mains are replaced, resulting in additional delays after missing paving seasons (the period of time when asphalt facilities are open and outdoor conditions are conducive to adequate curing).

10. KAWC routinely damages the facilities of other utilities, including nearly a dozen incidents of damage to individual sewer lines.

11. In March 2026, one of KAWC's subcontractors was terminated and not replaced for six weeks, causing an unreasonable delay in the projects.

12. In April 2026, KAWC began moving construction resources dedicated to projects in Fayette County to work in other counties in KAWC's territory to address complaints of poor performance in those counties, causing unreasonable delays in concluding projects in LFUCG's rights-of-way.

13. KAWC's unreasonable and inadequate construction practices in LFUCG's rights-of-way cause damage and unreasonable delay throughout Fayette County.

14. KAWC communicates poorly, if at all, with the residents of areas affected by construction in LFUCG's rights-of-way.

15. KAWC communicates poorly, if at all, with representatives of LFUCG concerning KAWC's unreasonable construction practices and unreasonable delays.

16. LFUCG, when projects are not completed as scheduled, reassess KAWC permit fees every 21 calendar days. KAWC's unreasonable and inadequate construction practices cause KAWC to fail to complete projects as scheduled, and,

consequently, KAWC incurs unreasonable costs from reassessed fees. KAWC has incurred almost $270,000 in reassessed fees since 2019 and KAWC, as of the filing of this Complaint, has incurred over $27,000 in reassessed fees in 2026. These are unreasonable costs which will be borne by LFUCG[6] if allowed for recovery in future rate proceedings.

17. KAWC's unreasonable delays in repairs and replacements negatively affect the purity, pressure, and quantity of water by delaying needed repairs to reduce water loss and replace aging mains.

18. LFUCG, as one of KAWC's largest customers, is particularly sensitive to the recovery of unreasonable costs through rates.

19. KAWC is proposing in its current rate application a System Improvement Plan (SIP) which is designed to, "allow KAWC to recover a portion of its projected capital investments between rate cases."[7]

20. A significant portion of the "capital investment" KAWC proposes to recover through the proposed SIP is to replace aging water mains.[8] KAWC is

[6] The unreasonable costs will also be borne by other KAWC customers, but LFUCG brings this complaint solely on its own behalf as one of KAWC's largest customers and government in whose territory KAWC has exercised its unreasonable and inadequate construction practices.

[7] Case No. 2026-00094, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, Approval of System Improvement Program, and Tariff Changes*, Direct Testimony of Ann E. Bulkley, (filed May 15, 2026) page 42, lines 26-27.

[8] Case No. 2026-00094, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, Approval of System Improvement Program, and Tariff Changes*, Direct Testimony of Jeffrey Newcomb,(filed May 15, 2026) page 32, line 20 to page 33, line 4.

proposing, by 2029, to double its water main replacement percentage from KAWC's 2024 level.[9]

21. The increased water main replacement mostly will occur within LFUCG's rights-of-way. Under KAWC's current unreasonable and inadequate construction practices the increased water main replacement projects will lead to increased costs for reassessed fees.

22. Water main replacement reduces non-revenue water and unaccounted for water loss.[10] Under KAWC's current unreasonable and inadequate construction practices for water main replacements, main replacement will not take place in a reasonable or timely manner, delaying needed reductions in water loss, resulting in increased costs for LFUCG and other KAWC customers.

23. KAWC continues to acquire systems outside of Fayette County that will strain the resources of KAWC, further retarding timely repairs to systems within Fayette County and increasing costs due to reassessed permit fees.[11]

24. KAWC's unreasonable and inadequate construction practices are a "service" subject to the jurisdiction of the Commission as they are a "practice or

[9] *Id.* page 34, lines 6-8.

[10] *Id.* page 37, line 7.

[11] See, e.g., Case No. 2026-00097, *Electronic Joint Application of Black Mountain Utility District and Kentucky-American Water Company for the Transfer of Control and Assets* (final Order entered July 10, 2026); Case No. 2025-000364, *Electronic Application of the City of Livingston and Kentucky-American Water Company for the Transfer of Control and Assets* (final Order entered Feb. 10, 2026); and Case No. 2025-00171, *Electronic Application of American Water Works Company, Kentucky-American Water Company, Nexus Regulated Utilities, LLC, and Water Service Corporation of Kentucky for Approval of the Transfer of Control of Water Service Corporation of Kentucky* (final Order entered Sept. 9, 2025).

requirement in any way relating to the service of any utility, including . . . the purity, pressure, and quantity of water . . .." KRS 278.010(13). KAWC has conceded that its construction practices are a "service" and subject to the Commission's jurisdiction.[12]

25. The additional costs incurred because of unreasonable and inadequate construction practices will cause unreasonable rates.

26. KAWC has stated that it is not seeking to recover the approximate $27,000 in reassessed permit fees from LFUCG in the current rate case proceeding.[13]

27. However, in the current rate case, KAWC's witness testified that permit fees are included in costs that are recovered in rates, or through the proposed SIP. [14]

28. KAWC's witness also testified that it would be appropriate to seek recovery of reassessed permit fees either through rates or through the proposed SIP in future proceedings.[15]

29. Recovery through rates, either through base rates or the proposed SIP, of reassessed permit fees is unreasonable and causes unreasonable rates.

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[12] Kentucky-American Water Company's Answer to Lexington-Fayette Urban County Government's Complaint (filed Sept. 8, 2026) at 10. ("KAW admits that its construction practices, insofar as those construction practices relate to providing potable water service to and for the public, are a "service" over which the Commission has jurisdiction.").

[13] Case No. 2026-00094, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, Approval of System Improvement Program, and Tariff Changes*, KAWC's Response to Commission Staff's Fifth Request for Information, Item 1 (filed Oct. 1, 2026). ("[KAWC]is not requesting recovery in this proceeding of the approximately $27,000 in 2026 reassessed permit fees that are referenced in the LFUCG Complaint."

[14] Case No. 2026-00094, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, Approval of System Improvement Program, and Tariff Changes*, Hearing Video Transcript ("HVT") of the Oct. 13, 2026 Hearing at 3:04:09-38.

[15] HVT of the Oct. 13, 2026 Hearing at 3:04:57-05:08.

30. Because of the time that elapses between rate proceedings, challenges to the recovery of these reassessed permit fees and other unreasonable costs will be difficult if not impossible for LFUCG to challenge the recovery of reassessed permit fees, much less timely raise issues related to KAWC's unreasonable construction practices.

31. The timing renders challenges to KAWC's recovery of reassessed permit fees and other costs caused by unreasonable construction practices "capable of repetition yet evading review,"[16] justifying Commission investigation, either through this complaint, or separate investigation of KAWC's construction practices.[17]

32. The Commission has jurisdiction over this complaint pursuant to KRS 278.260(1) which provides, in relevant part, that:

> The commission shall have original jurisdiction over complaints as to rates or service of any utility, and upon a complaint in writing made against any utility by any person that any rate in which the complainant is directly interested is unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed, with or without notice, to make such investigation as it deems necessary or convenient.

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[16] A matter is capable of repetition yet evading review if, "(1) the "challenged action is too short in duration to be fully litigated prior to its cessation or expiration and [2] there is a reasonable expectation that the same complaining party would be subject to the same action again." *Philpot v. Patton*, 837 S.W.2d 491, 493 (Ky. 1992), quoting, *In re Commerce Oil Co.,* 847 F.2d 291, 293 (6th Cir.1988).

[17] This inability to review timely issues with KAWC's construction practices and associated costs is underscored by KAWC's Answer in this matter. Although LFUCG disputes KAWC's claim that it had satisfied the matters of which LFUCG complained, by the time LFUCG realizes there is a particular problem with a construction project and brings the issue to the Commission for review the complained of action may be ended before the Commission can review the action. LFUCG will be subjected to the same conduct repeatedly, but the issue will likely evade Commission review.

33. The Commission has jurisdiction over this Complaint pursuant to KRS 278.270 which provides that:

> Whenever the commission, upon its own motion or upon complaint as provided in KRS 278.260, and after a hearing had upon reasonable notice, finds that any rate is unjust, unreasonable, insufficient, unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall by order prescribe a just and reasonable rate to be followed in the future.

PRAYER FOR RELIEF

Wherefore, Complainant, LFUCG, respectfully requests the following relief.

1. That the Commission accept this Complaint for filing.

2. That the Commission order KAWC to Satisfy or Answer the matter complained of in the Complaint.

3. That the Commission order KAWC to implement and follow written construction and repair policies, including communicating with local officials, and designating a dedicated KAWC representative to be the point of contact for construction management.

4. That the Commission disallow in rate case proceedings costs caused by unreasonable and inadequate construction policies.

5. That the Commission initiate an investigation of KAWC's construction policies, including, but not limited to, a management and operational audit as provided for in KRS 278.255.

6. That the Commission award any other relief it deems necessary.

Respectfully submitted,
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