



Matthew G. Bevin
Governor

Charles G. Snavelly
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Michael J. Schmitt
Chairman

Robert Cicero
Vice Chairman

Talina R. Mathews
Commissioner

October 10, 2018

PSC STAFF OPINION 2018-012

Lindsey W. Ingram III
Stoll Keenon Ogden PLLC
300 West Vine Street
Suite 2100
Lexington, KY 40507

Re: Kentucky American Water Request for Commission Staff Opinion

Dear Mr. Ingram,

Commission Staff acknowledges receipt of your letter dated September 28, 2018, on behalf of Kentucky-American Water Company (KAW), in which you request an opinion as to whether KAW's construction of a facilities garage in Owenton, Kentucky (the project) requires a Certificate of Public Convenience and Necessity (CPCN), or whether the project falls within the "ordinary course of business" exemption and, therefore, does not require a CPCN. This opinion represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and is not binding on the Commission should the issues be formally presented for Commission resolution.

As with all legal opinions requesting a determination of the exemption from the requirement of a CPCN, Commission Staff's review does not consider the reasonableness or the need for the project. Therefore, because reasonableness and need are not considered in this opinion, or in other non-rate cases, the cost of the project can be denied recovery in a rate case if found to be unreasonable or unnecessary.

Commission Staff understands the facts to be as follows:

KAW is planning to construct a facilities garage in Owenton so that KAW can efficiently and adequately serve customers in its Northern Division, which consists of approximately 233 miles of water main serving more than 4,000 customers in Owen, Gallatin, and Grant Counties. KAW does not currently have a dedicated facilities garage that provides service to its

Northern Division. Instead, two different plant locations serve the division. These locations lack sufficient indoor space, requiring KAW to store certain equipment outside, which results in damage to the equipment and, ultimately, can hinder service to KAW customers. KAW states constructing the project will allow indoor storage of equipment and reduce personnel travel as well as increase efficiencies and reduce risks associated with onsite work.

KAW estimates the preliminary cost of the project at \$1.4 million. KAW believes the project will be completed during the first quarter of 2020. KAW does not intend to finance the project as a stand-alone item. Rather KAW states it finances its entire capital program through short-term debt and available operational cash with periodic issuances of long-term debt and equity infusion. KAW states the construction of the project does not interfere with other utility service. Moreover, because its current facilities are not suitable for their desired purpose and renovation costs would be unreasonable, construction of the project does not unnecessarily duplicate KAW's current facilities. Finally, KAW states that, absent inclusion of the costs in rate base in a future base rate proceeding, the project will not result in increased charges to KAW customers.

KRS 278.020(1) provides, in relevant part, as follows:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except . . . ordinary extensions of existing systems in the usual course of business . . . until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

Regarding the exception to the CPCN requirement, 807 KAR 5:001, Section 15(3) provides:

Extensions in the ordinary course of business. A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same

area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders service, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

KAW's 2017 Annual Report shows KAW having a net utility plant of approximately \$568,269,283 as of December 31, 2017. Based on its estimated cost, the project would not materially impact KAW's existing financial condition. Therefore, the project is generally considered to be an extension in the ordinary course of business. Likewise, the cost estimate of the project will not have an immediate or significant impact on KAW's rates. Lastly, the project would not result in wasteful duplication of facilities or conflict with the service of other utilities. Thus, Commission Staff is of the opinion that the proposed project satisfies the "ordinary course of business" exemption from CPCN requirement.

This opinion represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and is not binding on the Commission should the issues be formally presented for Commission resolution. Questions concerning this opinion should be directed to me at (502) 782-2587.

Sincerely,

A handwritten signature in blue ink, appearing to read "John E.B. Pinney".

John E.B. Pinney,
Acting General Counsel

KM/kg