

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-)	
AMERICAN WATER COMPANY FOR A)	CASE NO.
BALANCING ADJUSTMENT FOR ITS QIP)	2023-00300
CHARGE)	

ORDER

On May 3, 2024, Kentucky-American Water Company (Kentucky-American) filed a petition, pursuant to KRS 278.400, requesting a rehearing to (1) adjust the timing of Kentucky-American’s future Qualified Infrastructure Program (QIP) filings from the time set forth in the Commission’s May 3, 2024 Order; and (2) to adjust Kentucky-American’s QIP Rider Charge approved in this proceeding to capture the corrections to authorized revenues reflected in Kentucky-American’s Petition for Rehearing submitted in Case No. 2023-00191.¹

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct finds that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the

¹ Kentucky-American’s Petition for Rehearing (Petition for Rehearing) (filed May 3, 2024) at 1.

evidence presented leaves no room for difference of opinion among reasonable minds.”²
An order can be unlawful if it violates a state or federal statute or constitutional provision.³

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

DISCUSSION AND FINDINGS

Timing of Kentucky-American’s Future QIP Filings

Kentucky-American stated that it was requesting a rehearing to adjust the timing of its future QIP filings so that it can maximize the efficient construction of its QIP projects by eliminating the straddling of QIP years over pipeline construction season.⁴ Kentucky-American stated that a shift to align QIP years with a calendar year will allow it to do its QIP assessment and planning during the colder months when construction is limited and then focus its resources on construction when it is occurring during the warmer months.⁵ Kentucky-American stated it believes this will allow for better coordination with the

² *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

³ *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

⁴ Petition for Rehearing at 1.

⁵ Petition for Rehearing at 2.

Lexington-Fayette Urban County Government for road repaving work and construction opportunities.⁶ The following schedule was proposed:⁷

Filing	Filing Date	QIP Period Start / Rates Effective	QIP Period End	Balancing Adjustment
QIP 5*	5/31/2024	9/1/2024	12/31/2024	None*
QIP 6	8/31/2024	1/1/2025	12/31/2025	QIP 4
QIP 7	8/31/2025	1/1/2026	12/31/2026	QIP 5
QIP 8	8/31/2026	1/1/2027	12/31/2027	QIP 6

*Filing to remove QIP 3 Balancing Adjustment and proposing no new QIP investments.

Upon review of this request, it is noted that the Commission designated the dates in the May 3, 2024 Order, without the benefit of the alternative schedule suggested by Kentucky-American in its rehearing petition. Having reviewed the relevant record, the rehearing pleadings, and being otherwise sufficiently advised, the Commission finds that Kentucky-American’s request for a rehearing to adjust the timing of its future QIP filings should be granted to obtain additional information before issuing a decision on this issue. The Commission notes that the rehearing will address the timing of future QIP filings beginning with QIP 6.⁸

Adjustment to Authorized Revenues Used for Kentucky-American’s QIP Rider Charge

Kentucky-American stated that it seeks rehearing to adjust the authorized revenues used to determine the approved QIP Rider Charge to reflect the corrections

⁶ Petition for Rehearing at 2.

⁷ Petition for Rehearing at 3.

⁸ Kentucky-American filed the QIP 5 on May 31, 2024 in Case No. 2024-00173, *Electronic Application of Kentucky-American Water Company to Amend Tariff to Revise Qualified Infrastructure Program Charge*, in compliance with the May 3, 2024 Order.

sought in Kentucky-American's Petition for Rehearing in Case No. 2023-00191.⁹ Kentucky-American stated that, to the extent the Commission grants the rehearing and ultimately orders new rates, the revised level of authorized revenues should be used to support both the updated QIP Rider 4 Charge and the QIP 3 Balancing Adjustment Rider Charge.¹⁰ Kentucky-American stated that, absent this adjustment, the QIP Rider Charge would be understated.¹¹

Having reviewed the relevant record, the rehearing pleadings, and being otherwise sufficiently advised, the Commission finds that Kentucky-American's request for a rehearing to adjust the authorized revenues used to determine the approved QIP Rider Charge to reflect the corrections included in Case No. 2023-00191 should be denied. The authorized revenues are being reviewed as part of a Petition for Rehearing in Case No. 2023-00191. While the Commission notes that the revenues from Case No. 2023-00191 were used as the authorized revenues in this case, Case No. 2023-00191 is the proper case to address that issue. Kentucky-American has not presented any new evidence nor made any claim of any material errors or omissions in the May 3, 2024 Order in this case. Additionally, if the Commission ultimately orders new rates in Case No. 2023-00191, the QIP Rider Charge has a true-up mechanism that corrects for over- or under-recovery.

Effective Date of QIP Rider Charges and Confirmation

Kentucky-American requested that any new QIP Rider Charges approved on rehearing be effective for services rendered on and after May 3, 2024, through August 31,

⁹ Petition for Rehearing at 4.

¹⁰ Petition for Rehearing at 4.

¹¹ Petition for Rehearing at 4.

2024, and requested confirmation that the QIP 4 Rider Charge set forth in the Appendix to the Order apply to services rendered on and between February 6, 2024, and May 2, 2024.¹²

Having reviewed the relevant record, the rehearing pleadings, and being otherwise sufficiently advised, the Commission finds that Kentucky-American's request for a rehearing as to the effective date of the QIP Rider Charges should be denied. The Commission has granted rehearing in Case No. 2023-00191, and pursuant to the procedural schedule contained in that Order,¹³ the deadline to ask for a rehearing or a decision based on the record is July 26, 2024, which means that the authorized revenues were not available to timely address the issue before the QIP 5 filing date of May 31, 2024. The QIP Rider Charges have a true-up mechanism that corrects for over- or under-recovery of any revenue adjustments made based on Case No. 2023-00191. KRS 278.400 does not authorize the relitigation of issues already raised, and Kentucky-American has not provided new information or pointed to an error or an admission in the final Order in this case. The Commission directs Kentucky-American to address this issue in its QIP 6 filing, as this is the appropriate case to address any changes made to Kentucky-American's revenues in Case No. 2023-00191.

The Commission, on its own motion, finds that a procedural schedule should be established for the orderly processing of matters addressed in this Order. The procedural schedule is attached as an Appendix to this Order.

¹² Petition for Rehearing at 4.

¹³ Case No. 2023-00191, May 28, 2024 Order.

IT IS THEREFORE ORDERED that:

1. Kentucky-American's petition for rehearing is granted in part and denied in part.

2. Kentucky-American's request for a rehearing to adjust the timing of its future QIP filings, beginning with QIP 6, so that it can maximize the efficient construction of its QIP projects by eliminating the straddling of QIP years over pipeline construction season is granted for the purposes of obtaining additional information before issuing a decision on this issue.

3. Kentucky-American's request for a rehearing to adjust the authorized revenues used to determine the approved QIP Rider Charge to reflect the corrections included in Kentucky-American's Petition for Rehearing in Case No. 2023-00191 is denied.

4. Kentucky-American's request for a rehearing as to the effective date of the QIP Rider Charges is denied.

5. The procedural schedule set forth in the Appendix to this Order shall be followed.

6. Kentucky-American shall respond to all requests for information propounded by Commission Staff, whether identified on the procedural schedule or otherwise, as provided in those requests.

7. The remainder of the May 3, 2024 Order not in conflict with this Order remains in effect.

PUBLIC SERVICE COMMISSION



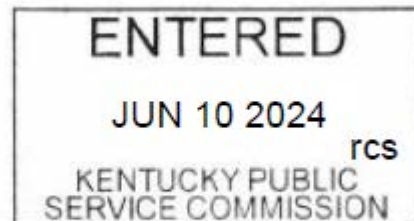
Chairman



Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00300 DATED JUN 10 2024

All requests for information to Kentucky-American
shall be filed no later than 06/14/2024

Kentucky-American shall file responses to requests for
information no later than..... 06/28/2024

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