

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 in Opposition

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and hereby provides his Response in Opposition to Kentucky-American Water Company’s (“KAW” or “Company”) Motion For Reconsideration (“Motion”). The Attorney General disagrees with KAW’s Motion, which seemingly requests that the Commission substitute its own wisdom for KAW’s opinion. The Commission’s August 23, 2017 Order (“Order”) determined the correct procedure in considering KAW’s Application, by ordering that the Application must conform to the requirements of a general adjustment of rates.¹

KAW’s Motion is premised on the idea that somehow KAW knows better than the Commission in determining the correct policy for addressing cases *before* the Commission.² Regardless of assertions otherwise, the record is devoid of any evidence that the Commission does not fully understand the implications of its Order.³ While KAW proposes that its Motion is for the sweeping, altruistic purpose of helping the Commission address water-loss issues

¹ Order, Case No. 2017-00313 (Ky. PSC August 23, 2017) p. 3.

² See Motion for Reconsideration, Case No. 2017-00313 (Ky. PSC September 8, 2017) p. 2, stating, “the best and most insightful policy is to process this as a tariff case.”

³ *Id.*

among all jurisdictional water utilities⁴, KAW reads the Order too broadly. The Commission's Order does not dictate that there is new policy regarding the request, approval and implementation of programs meant to address water loss. Rather, the Commission's Order clearly indicates only that *this* Application, "constitutes a general adjustment in existing rates."⁵ Of course, the Commission is taking a closer look at the issue of non-revenue water, but, by KAW's own admission, the Vice Chairman's recent comments seem to make clear that any proposal, including those for surcharges, must be justified.⁶ The Commission's Order does nothing more than compel KAW to properly justify and support its proposal, which is an appropriate exercise of Commission power.⁷

In this case, KAW's Application is not merely a request to shore up its infrastructure or address its ongoing increase in non-revenue water,⁸ but rather is a novel request for a surcharge to help recover costs prior to incurring them in replacing a vast amount of its distribution system over the next few decades.⁹ The Commission clearly sees the impact this Application may have on KAW customers, and understands the merits of reviewing the case accordingly. Comparing KAW's desire for this surcharge to the problems faced by small

⁴ Motion, Case No. 2017-00313 (Ky. PSC September 7, 2017) p. 2-4.

⁵ Order, Case No. 2017-00313 (Ky. PSC August 23, 2017) p. 3.

⁶ Motion, Case No. 2017-00313 (Ky. PSC September 7, 2017) p. 5.

⁷ Motion, Case No. 2017-00313 (Ky. PSC September 7, 2017) p. 1-2; Although Conway provided that the Commission may allow recovery of costs outside of rate cases, it nonetheless solidified the broad ratemaking authority of the PSC, which necessarily includes the power to require the recovery of costs *within* "the parameters of a general rate case," Kentucky Public Service Commission v. Commonwealth of Kentucky, ex rel. Jack Conway, 324 S.W.3d 373, 374 (Ky. 2010).

⁸ See Ordering Paragraph 9 Report, NWS Status Report 1 September 2017, Case No. 2007-00134 (Ky. PSC September 1, 2017) p. 2, noting that KAW's 12 month rolling NRW is 17.2% as of the end of July 2017, compared to 13.7% at the time of the study in 2009, Attached as **Exhibit 1**.

⁹ Direct Testimony of Brent E. O'Neill, P.E., Exhibit BE01, Case No. 2017-00313 (Ky. PSC August 4, 2017) p. 19, stating "[a]t the conclusion of the 25 year replacement period for cast iron, the company will start to focus on the replacement of the 339 miles of asbestos cement pipe..."

systems, which are frequently governmental entities with limited access to capital, is disingenuous at best.¹⁰

In its Motion, KAW argues that its proposal to treat *all* surcharges of this type as tariff cases rather than applications for rate adjustments is because the former would be “the best and most efficient way.”¹¹ Although the Attorney General can find no explanation of what KAW means by “best”, he can only assume it is merely an opinion of the “efficient” proposal made by KAW. Make no mistake though, in this instance “efficient” likely means expedient, both in this matter and every year from now until there is no more infrastructure to replace. The Commission made the right decision in requiring KAW to file the matter as a general adjustment in rates, considering that the surcharge is intended to recover hundreds of millions of dollars over the next few decades.

By expediting the review process, the Commission would be unable to evaluate certain information that is available only through a rate review in accordance with 807 KAR 5:001 Section 16. KAW’s Motion argues that permitting it to file only the information required in a tariff review would allow the Company to proceed without providing superfluous information such as cost of service, cost of capital and depreciation testimony.¹² The Attorney General does not believe providing testimony on these subjects is an “unnecessary” burden to KAW, but rather is essential for a review of this type.¹³ Take for instance cost of capital, which is necessary in determining the allowed rate of return earned on the amount invested

¹⁰ Importantly, by enacting KRS 74.395 the legislature made it clear that water districts are unique from investor owned water utilities, particularly in financing and the use of surcharges; Motion, Case No. 2017-00313 (Ky. PSC September 7, 2017) p. 5.

¹¹ Motion, Case No. 2017-00313 (Ky. PSC September 7, 2017) p. 6.

¹² Motion, Case No. 2017-00313 (Ky. PSC September 7, 2017) p. 7.

¹³ *Id.*

by KAW.¹⁴ The cost of capital measures the investors' required rate of return on investment¹⁵ and, in fact, KAW's main argument for needing the QIP is to reduce "earnings erosion as capital costs of infrastructure replacement. . . goes unrecovered until the completion of a general rate proceeding to recover the return of and on these ongoing investments."¹⁶ Further, KAW argues that, "implementing the QIP rider will result in more predictable and timely recovery of costs, which will, in turn, improve the ability to attract capital necessary to carry out an infrastructure replacement program."¹⁷ The Attorney General posits that if KAW is not able to attract enough capital to maintain an adequate level of infrastructure investment, a rate case is the only prudent way forward.¹⁸ If, for some reason, KAW takes the position that cost of capital is not a subject it feels compelled to provide testimony on, it is free to request a deviation, supporting such a motion with good cause for relief.¹⁹ Additionally, the subjects of cost of service and depreciation, as well as the other topics required to be covered in a general rate adjustment, are imperative to the determination of whether the rates recovered via the QIP are fair, just and reasonable.

In its Order the Commission properly decided that any review of the Application for a QIP must conform to the requirements set forth in 807 KAR 5:001 Section 16.²⁰ Expediency

¹⁴ If KAW does not believe rate of return and cost of capital are issues to be raised in the review of the QIP application, then the Attorney General wonders why KAW hasn't already invested the amount necessary to address the increase in non-revenue water; See **Exhibit 1**.

¹⁵ Direct Testimony of Dr. James H. Vander Weide on Behalf of Kentucky-American Water Company, Case No. 2015-00418 (Ky. PSC January 29, 2016) p. 4.

¹⁶ Direct Testimony of Linda C. Bridwell, P.E., Case No. 2017-00313 (Ky. PSC August 4, 2017) p. 4-7.

¹⁷ *Id.*

¹⁸ Direct Testimony of Linda C. Bridwell, P.E., Case No. 2017-00313 (Ky. PSC August 4, 2017) p. 6-7. The Attorney General cannot discern from the testimony whether KAW is making the argument that it and its parent company are unable to attract the necessary capital to "reach and maintain a more optimal level of infrastructure investment" or if KAW is making an assertion that without the QIP, more money will be diverted into other American Water states for investments rather than in "necessary" KAW infrastructure.

¹⁹ Order, Case No. 2017-00313 (Ky. PSC August 23, 2017) p. 4; 807 KAR 5:001 Section 22.

²⁰ Order, Case No. 2017-00313 (Ky. PSC August 23, 2017) p. 3.

and efficiency should not be the sole considerations when the rates of hundreds of thousands of customers over the next half century will be affected by a proposal. The Commission's decision is supported by the law and precedent,²¹ and is the most prudent process for determining whether the proposed rates are fair, just and reasonable.

WHEREFORE, the Attorney General requests the Commission deny Kentucky-American Water's Motion for Reconsideration, and order the Company to comply with its previous Order to file the notice stating whether it plans to tender for filing a QIP Rider application supported by exhibits required by 807 KAR 5:001, Section 16.

Respectfully submitted,

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²¹ See Kentucky Public Service Commission v. Commonwealth of Kentucky, ex rel. Jack Conway, 324 S.W.3d 373, 374 (Ky. 2010); See also: Order, Electronic Application of Bullitt Utilities, Inc., for a Surcharge, Case No. 2016-00401 (Ky. PSC December 29, 2016) p. 4, citing Order, Application of Bullitt Utilities, Inc. for a Certificate of Convenience and Necessity and Surcharge for Same, Case No. 2014-00255 (Ky. PSC December 23, 2014) p. 3.

Exhibit 1

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 01 2017

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:)
)
THE APPLICATION OF KENTUCKY-AMERICAN)
WATER COMPANY FOR A CERTIFICATE OF) CASE NO. 2007-00134
CONVENIENCE AND NECESSITY AUTHORIZING)
THE CONSTRUCTION OF KENTUCKY RIVER)
STATION II, ASSOCIATED FACILITIES AND)
TRANSMISSION MAIN)

ORDERING PARAGRAPH 9 REPORT

In accordance with Ordering Paragraph 9 of the Commission's April 25, 2008 Order, Kentucky-American Water Company ("KAW") provides the following monthly report on the status of the development and implementation of its water conservation, leak mitigation and demand-side management plans. KAW hereby incorporates all prior Ordering Paragraph 9 Reports it has filed in this matter.

As set forth in previous reports, KAW retained Gannett Fleming, Inc. to assist with the development of a leak mitigation plan and Strand Associates, Inc. to assist with the development of a conservation/demand management plan in accordance with Ordering Paragraph 8 of the Commission's April 25, 2008 Order. As for the leak mitigation plan, the consultant completed its final report and it has been submitted to the Commission. KAW formed a task force comprised of KAW personnel from various disciplines and job areas that implemented many of the recommendations in the report. A copy of the latest task force status report is attached.

As for the conservation/demand management plan, KAW formed a task force to assess the conservation study that has been submitted to the Commission. This task force is also comprised of KAW personnel from various disciplines and job areas. The task force determined the appropriateness, effectiveness, and best methods of implementing the conservation

recommendations set forth in the conservation study. The task force also determined that a team needed to be assembled that focuses on raising customer awareness of existing conservation programs and on internal efforts recommended by the consultant. As a result of that process, in August 2017, KAW's conservation activities included: sponsoring a rain barrel workshop for Bluegrass Greensource; running online conservation tips on kyforward.com; and running conservation radio spots with Cumulus media on Nash 92.9 and WVLK 590.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the original and six (6) copies of the foregoing have been filed with the Public Service Commission this the 1st day of September, 2017 and a copy mailed to:

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NRW Status Report

1 September 2017

The Gannett Fleming (GF) study on Non Revenue Water (NRW) for Kentucky American Water (KAW) was supplied to the PSC in early September 2009. KAW has assembled a task force that includes a cross section of KAW personnel from various disciplines and job duties to assess each recommendation, and determine how to best integrate the recommendation into KAW operations.

The report's Executive Summary identifies 6 tasks and makes recommendations related to each. Only the tasks with pending actions in October 2010 are referenced in this report.

Under Task 1, GF recommended four actions. Four of the four recommended main replacement projects are complete.

Under Task 4, GF has recommended two metering studies that may offer value in ensuring metering accuracy. KAW conducted a detailed meter demand study to ensure that all large meters with bypass settings are metered at the bypass. As standard operating practice, Kentucky American Water will continue to monitor large meters as recommended in GF executive summary task 4.

Under Task 5, the GF study made three recommendations. The first and third recommendation, were addressed in prior reports and are complete. The second recommendation deals with property owners who do not address known

leaks on private services. KAW continues to work with customers to address these issues.

Under Task 6, GF offers three recommendations, all involving adoption of the IWA/AWWA tracking methodology. KAW is already implementing both of the first two and continues to move forward on the third. The company's 12 month rolling NRW is 17.2% at July 31, 2017, as compared to 13.7% at the time of the GF study.

The IWA/AWWA methodology offers transparency into the various components of non-revenue water that may supplement information provided on the current PSC water loss reports.