

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-)
AMERICAN WATER COMPANY FOR AN) CASE NO. 2018-00358
ADJUSTMENT OF RATES)

**COMMUNITY ACTION COUNCIL FOR LEXINGTON-FAYETTE, BOURBON,
HARRISON, AND NICHOLAS COUNTIES, INC.'S MOTION TO INTERVENE**

* * * * *

Comes the Community Action Council for Lexington-Fayette, Bourbon, Harrison, and Nicholas Counties, Inc. (hereinafter "CAC"), by counsel, and pursuant to 807 KAR 5:001 Section 4(11) moves that it be granted leave to intervene in this matter and that it be granted full intervention. As grounds for this motion, CAC states as follows:

1. CAC, whose address is P.O. Box 11610, Lexington, KY 40576, is a non-profit, 501(c)(3), community action agency which provides social services, including energy assistance and related services, to many low income residents in the Kentucky-American Water Company (hereinafter "Kentucky-American") service territory.

2. Counsel for CAC is:

Iris G. Skidmore, Esq.
Bates and Skidmore
415 W. Main St., Suite 2
Frankfort, KY 40601
Telephone: (502)-352-2930
Facsimile: (502)-352-2931
Batesandskidmore@gmail.com

Counsel is authorized to take service of all documents in this matter and by electronic means.

3. 807 KAR 5:001 Section 4(11) states that the Commission shall grant intervention if it finds that a timely motion has been made and that the movant has a "special interest in the case that is not otherwise adequately represented" or that intervention is "likely to present issues

or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.”

4. CAC’s motion to intervene in this matter is timely, in that it has been filed prior to December 29, 2018, the last date for intervention in the Scheduling Order in this matter.

5. CAC has a special interest in this case that is not otherwise adequately represented. CAC was an intervening party in Kentucky-American’s 2015 rate case, 2015-00418; 2012 rate case, 2012-00036; 2010 rate case, 2010-00036, and late payment fee tariff case, 2012-00155. In these cases, CAC has represented the interests of the community of customers with low income, and has provided necessary testimony and facts to assist the Commission in fully considering the matters relating to the rate increase requests, and the effects of those rate increases on the community with low income.

CAC is uniquely situated in Kentucky-American’s service territory. CAC has many years of experience in providing utility payment assistance to persons with low income, administering utility assistance programs, and partnering with electric, water, and gas utilities on assistance programs. Because of its experience and expertise in issues affecting the low income community, CAC has traditionally been the intervening party in Kentucky-American’s rate cases, (as well as electric and gas rate cases), which has provided testimony on the effects of rate increases on the community with low income and data relating to poverty in the service area. This testimony is relevant to the Commission’s determination of affordability and the reasonableness of the requested rate increase. In these rate cases, CAC has continued to negotiate in good faith with Kentucky-American and the other intervening parties to find areas of agreement and compromise, and CAC supported the settlement agreement and stipulation that resulted from Kentucky-American’s last rate case, Case No. 2015-00418. CAC also worked out

a compromise with Kentucky-American in Case No. 2012-00155 to provide for an exemption from payment of late fees to customers who receive bill paying assistance.

In all of the Kentucky-American rate cases above, CAC has advocated for lower rates and programs that provide payment assistance for low-income customers and which encourage efficiency and water conservation.

CAC also has a special interest in this specific rate application for the reason that Kentucky-American is seeking a substantial residential rate increase of 22.9%, which will make it even more difficult for customers with low income to afford their water bills. Water is a necessity and there are no cheaper alternatives to Kentucky-American water for customers with low income living in the service territory. Any rate increase will affect customers with low income disproportionately, as they already struggle to pay for basic needs. The Commission so found in Case No. 2018-00036, Order, p. 73 stating: “The Commission recognizes that a significant portion of Kentucky-American’s customers have annual incomes that are at or below the Federal Poverty Guideline. We further recognize that the approved rate adjustment will more adversely affect these customers than those with higher annual incomes.”

CAC’s interest in the most vulnerable water customers not having their water shut off for failure to pay their water bills and ensuring that disconnections for non-payment are minimized for these customers with low income is a special interest that is unique to CAC, due to its advocacy for the low income community. CAC is interested in Kentucky-American maintaining its flexible payment schedules, and adequately funding H2O, Help to Others, both mentioned in Kentucky-American’s testimony supporting the application. CAC’s special interest includes the applicant’s request to increase the basic service charge to \$15, which will have an adverse effect on the ability of CAC’s constituents to reduce their water bills through conservation. The amount of the rate increase granted in this case, and the rate design approved, is of special

interest to CAC, as it works with vulnerable constituents to stretch every dollar and keep them from falling further into poverty.

Kentucky American's application seeking a Qualified Infrastructure Tariff is also relevant to CAC's advocacy for reasonable rates.

Approval of this rate increase will widen the affordability gap for the community with low income. Further, customers with low income are also disproportionately affected by this rate increase for the reason that they are less able to control their bills through water efficient appliances.

6. Because CAC is the primary advocate for low income customers in Kentucky-American's service area, its special interest in this proceeding and unique perspective will not be represented by the other parties to this proceeding. CAC's interests are not adequately represented by the other parties to this proceeding, including the Office of the Attorney General. The Office of the Attorney General cannot adequately represent the subset of residential rate-payers that are low-income because the Attorney General's KRS 367.150(8) mandate is to represent consumers' interests, not a subset of consumers. According to the last Kentucky-American rate case, the subset of customers living at or below poverty level incomes made up approximately 19 percent of all the Kentucky-American residential customers. The interest of customers with low income differs from that of the interest of consumers generally, and the Attorney General cannot advocate specifically for customers with low income. In Franklin Circuit Court Consolidated Cases No. 18-CI-01115, 18-CI-01117, and 18-CI-001129, the Attorney General's Response to Plaintiffs' Motions for Injunctive Relief, acknowledged that it is mandated to represent consumers generally, and not a specific subset. There can be situations where the special interests of the community with low income can conflict with the interest of consumers generally. The Attorney General cannot and will not represent those special interests.

And, the Office of the Attorney General does not have the experience and expertise working with the customers who face service disconnections for inability to pay their utility bills, many for more than one utility service. CAC is well equipped to identify issues for the Commission's consideration as it relates to affordability and reasonable rates. The Office of the Attorney General should not be considered adequate representation of the interests of the low income community any more than it should be considered adequate representation for any other subset of consumers (commercial or industrial) who typically is granted intervention in these proceedings.

Customers with low income are a significant portion of the Kentucky-American customer base, and need and deserve an advocate in this rate proceeding. Many customers living at or below the poverty level face difficult choices every day, and are already unable to pay for necessities. Testimony that CAC will file in this proceeding will provide the low income community's unique perspective on the effects of Kentucky-American's requested rate increase, one which the Office of the Attorney General cannot provide.

7. Intervention by CAC will present issues and develop facts that will assist the Commission in fully considering this matter without unduly complicating or disrupting the proceedings. As a result of the testimony from CAC, the order in Kentucky American's rate case No. 2010-00036, p. 74, the Commission stated: "If the Commission is to properly review and assess the affordability of Kentucky-American's rates, we must have accurate and reliable information regarding customer payment." As requested by CAC, the Commission ordered Kentucky-American to develop and implement a plan to record the number of late payments, frequency of late payments by each customer, terminations for nonpayment for each customer account, and other data. In the subsequent rate cases, CAC has requested this information in data requests, and highlighted it in testimony to assist the Commission in determining the affordability of Kentucky-American rates. CAC will provide this type of information in this case,

and will provide it by counties in the service area, and poverty levels in those counties. CAC will also seek data requests to determine the level of Kentucky-American's H2O (Help to Others) assistance provided to low income customers (which CAC does not administer), and the effectiveness of that assistance, including efforts made by Kentucky-American to improve awareness of H2O for customers with low income.

CAC will present facts and data relating to county poverty rates, and how customers living at or below the poverty level will be affected by this rate increase. This information is essential to assist the Commission in fully considering the reasonableness of this rate request and the affordability of a basic need, water. CAC will accept and abide by the procedural schedule in this matter, including filing testimony. No party will be prejudiced by CAC's intervention. CAC will take an active role in this matter, and will participate fully.

CAC expects to present the testimony of Melissa Kane Tibbs, and may choose to present testimony of other witnesses not yet identified.

WHEREFORE, CAC requests that it be granted leave for full intervention and that it be certified as a full party in this proceeding, including the right to present testimony and exhibits, present witnesses, cross-examine witnesses, and be served with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by the parties or orders of the Commission.

Respectfully submitted,



IRIS G. SKIDMORE
Bates and Skidmore
415 W. Main St., Suite 2
Frankfort, KY 40601
Telephone: (502)-352-2930
Facsimile: (502)-352-2931

COUNSEL FOR CAC

CERTIFICATE OF SERVICE

I hereby certify that CAC's December 27, 2018 electronic filing is a true and accurate copy of CAC's Motion to Intervene and cover letter to be filed in paper medium; that the electronic filing has been transmitted to the Commission on December 27, 2018; that an original and one copy of the filing will be delivered to the Commission on December 27, 2018; that there are currently no parties excused from participation by electronic service; and that, on December 27, 2018, electronic mail notification of the electronic filing is provided to the Commission and the following:

Lindsey W. Ingram, III, Esq.
STOLL KEENON OGDEN PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
L.Ingram@skofirm.com

Monica Braun, Esq.
STOLL KEENON OGDEN PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801

Linda C. Bridwell
Director of Engineering
Kentucky American Water Company
2300 Richmond Road
Lexington, KY 40502

Melissa Schwarzell
Kentucky-American Water Company
2300 Richmond Road
Lexington, KY 40502

Kentucky-American Water Company
2300 Richmond Road
Lexington, KY 40502



Counsel for CAC

