

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF:**

<b>ELECTRONIC APPLICATION OF KENTUCKY-</b>	)	
<b>AMERICAN WATER COMPANY FOR AN</b>	)	
<b>ADJUSTMENT OF RATES, A CERTIFICATE</b>	)	
<b>OF PUBLIC CONVENIENCE AND NECESSITY</b>	)	<b>CASE NO. 2023-00191</b>
<b>FOR INSTALLATION OF ADVANCED METERING</b>	)	
<b>INFRASTRUCTURE, APPROVAL OF CERTAIN</b>	)	
<b>REGULATORY AND ACCOUNTING</b>	)	
<b>TREATMENTS, AND TARIFF REVISIONS</b>	)	

**KENTUCKY-AMERICAN WATER COMPANY’S**  
**MOTION TO SUSPEND THE REFUND PROCESS UNTIL AFTER**  
**THE REHEARING PROCESS IS COMPLETE**

Kentucky-American Water Company (“KAW”), pursuant to 807 KAR 5:001, Section 5, respectfully requests the Kentucky Public Service Commission (“Commission”) to suspend the Commission-ordered refund process until after the rehearing process is complete. Given the impending deadlines associated with the ordered refunds, KAW requests the Commission to review this Motion on an expedited basis. In support of this Motion, KAW states as follows.

**Background**

On May 3, 2024, the Commission issued an order setting forth rates and charges for service rendered on and after February 6, 2024 (“Order”), which is the date that KAW implemented its proposed rates subject to refund. Ordering Paragraph 3 requires KAW to “refund to each customer all amounts collected from that customer in excess of the rates approved in this Order for service rendered on or after February 6, 2024” within 60 days. Ordering Paragraph 5 requires KAW to

file a report within 75 days describing its refund efforts. Ordering Paragraph 16 required KAW to file its revised tariffs setting out the rates authorized in the order within 20 days.

On May 16, 2024, KAW requested rehearing to correct five different material calculations in the Order: (1) in removing the Qualified Infrastructure Program (“QIP”) from base rates, the Order failed to remove QIP revenues from KAW’s present rate revenues; (2) income tax expense was understated; (3) KAW’s revised capital structure was not utilized in calculating the rate of return; (4) the bulk sales rates appeared to have decimal errors; and (5) the ordered Judy Water Association rates differed from the sale for resale class. On May 17, 2024, the Commission issued a *nunc pro tunc* order resolving issue (4) regarding the bulk sales rate.

On May 28, 2024, the Commission issued an order granting rehearing on issues (1), (2), and (3). With respect to issue (5), the order granting rehearing confirmed that the Judy Water Association should be charged the sale for resale rate, thereby resolving this issue. To facilitate the Commission’s review of issues (1), (2), and (3) for which rehearing was granted, the order established a procedural schedule allowing for discovery that will last through July 2024, at least. The rehearing order also allowed for the possibility that any amended rates would be effective as of February 6, 2024.

On May 22, 2024, during the period between the filing of KAW’s request for rehearing and the Commission’s order granting same, KAW submitted its revised tariff in the tariff portal system for the Commission’s consideration as it was required to do pursuant to Ordering Paragraph 16 of the Order.

### **Requested Relief**

Given that the Commission has granted rehearing on three issues, KAW respectfully requests that the Commission suspend Ordering Paragraphs 3 and 5 of the Order until the rehearing

process concludes. If any of the three rehearing requests are resolved in the manner KAW's Petition requests, the rates in the Order will be revised. If KAW must complete the refund process within the 60 days in the Order, the refund deadline is July 2, 2024, which is before the rehearing discovery process will conclude.

Unless Ordering Paragraphs 3 and 5 are suspended, KAW will have to issue refunds based on the difference between the proposed rates and the rates in the Order, with a second true-up required if the rates are later revised through rehearing. A refund followed by a second-true up would likely cause customer confusion and uncertainty. Likewise, the refund process is complex to administer, and performing it once—after rates are final—would benefit both KAW and its customers.

KRS 278.190(4), which is the statute that describes the refund process, supports KAW's requested relief. The statute states that "If the commission, by order, directs any utility to make a refund, as hereinabove provided, of all or any portion of the increased rates or charges, the utility shall make the refund within sixty (60) days after a *final determination of the proceeding by an order of the court or commission...*"<sup>1</sup> This statute expressly acknowledges that a refund may not be appropriate until the Commission (or in the case of an appeal, courts) has *finally* resolved the matter.

In anticipation of the possibility that rates will be revised as part of the rehearing process, KAW has continued to bill at its proposed rates. Otherwise, the refund process could be complicated by three different sets of rates, which again could cause customer confusion and increase the complexity of performing the refund process. Continued billing at KAW's proposed rates is consistent with the Commission's ruling in the rehearing order that allows for the

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<sup>1</sup> KRS 278.190(4) (emphasis added).

possibility that revised rates will be effective as of February 6, 2024. By tying all billing changes to two key dates: (1) February 6, when the proposed rates were implemented and (2) the conclusion of the rehearing process, the Commission, all parties, and KAW's customers can be assured that the revised rates and refunds are issued in a straightforward manner. Thus, KAW has continued to keep its records in a manner to allow for the refund process, and, of course, customers will receive interest on the total refunded amounts.

As a final request, KAW asks that the Commission suspend its consideration of the revised tariff that KAW was required to submit pursuant to Ordering Paragraph 16 of the Order until the conclusion of the rehearing proves. Such suspension will prevent the possible approval of the submitted tariff<sup>2</sup> and then the submission and approval of yet another tariff at the conclusion of the rehearing process. Such duplication would be inefficient and could cause unnecessary confusion. Should the Commission grant this request, KAW would file a notice in the tariff filing requesting that the filing be withdrawn if the Commission believes such filing would be necessary. Due to the administrative complexity associated with the refund process, KAW respectfully requests the Commission to rule on this Motion on an expedited basis so that KAW can comply with the Order should its requested relief be denied.

WHEREFORE, KAW respectfully requests the Commission issue an order:

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<sup>2</sup> Approval of the submitted tariff in full would now not be appropriate anyway because of the Commission's resolution of the Judy Water Association issue.

1. Suspending Ordering Paragraph 3 of the Commission's May 3, 2024 Order until the rehearing process concludes;
2. Suspending Ordering Paragraph 5 of the Commission's May 3, 2024 Order until the rehearing process concludes; and
3. Suspending the Commission's consideration of the tariff KAW submitted on May 22, 2024 which was before KAW's Petition for Rehearing was granted, in part.

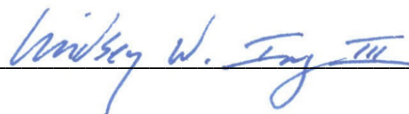
Respectfully submitted,

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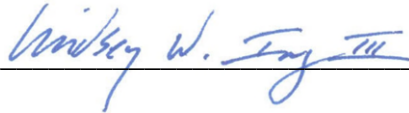
BY:  \_\_\_\_\_

Attorneys for Kentucky-American Water Company

**CERTIFICATE**

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on May 31, 2024; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

STOLL KEENON OGDEN PLLC

BY: 

Attorneys for Kentucky-American Water Company