

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

IN THE MATTER OF:

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

**KENTUCKY-AMERICAN WATER COMPANY’S MOTION
FOR RULING REGARDING SUFFICIENCY OF APPLICATION**

Pursuant to 807 KAR 5:001, Kentucky-American Water Company (“KAW”) requests a ruling from the Commission on the relief requested in its July 7, 2023 Annual Cost of Operation for AMI filing. In support of its Motion, KAW states as follows:

On June 30, 2023, KAW submitted a rate case Application that included a request for a Certificate of Public Convenience and Necessity (“CPCN”) for the deployment of Advanced Metering Infrastructure (“AMI”). At Paragraph 28 of the Application, KAW specifically provided the “estimated annual cost of operations . . . *after the proposed facilities are placed into service*” to comply with the requirement for CPCN cases described at 807 KAR 5:001, Section 15(2)(f) (emphasis added). KAW did so by providing the estimated annual cost of AMI at Year 10 of the proposed project because that is the first year in which AMI would be fully deployed and “placed in service” to all customers. KAW stated that Year 10 would be “after nearly one full replacement cycle” which means, again, the first year in which AMI meters would be fully deployed across the KAW service territory and placed in service. Thus, in KAW’s judgment, that is the most logical year of operating costs to provide to the Commission to meet that CPCN filing requirement because that is the first year AMI would be fully “placed in service” per the language of the

governing regulation. KAW in no way intended to provide anything other than the full forecasted annual operating cost for the most logical year under a fair reading of the regulation.

On July 7, 2023, the Executive Director of the Commission issued a letter stating that the Application was deficient because KAW did not provide the estimated annual cost of operation after the proposed facilities are placed into service as required by 807 KAR 5:001, Section 15(2)(f).

On that same day, July 7, 2023, KAW responded to the deficiency letter in a filing titled Annual Cost of Operation for AMI.¹ The pleading noted in the first paragraph that KAW's Application had fully complied with the regulation by providing the forecasted annual cost of operation at Year 10, which, again, is the first year the infrastructure that is the subject of the CPCN will be fully deployed and placed in service. Out of an abundance of caution and to prevent any further delay of the processing of this case, KAW included in its July 7, 2023 filing the estimated forecast annual cost of operation for each year for the first 20 years of AMI. KAW's request for relief stated: "KAW respectfully requests the Commission deem its Application filed as of June 30, 2023. KAW alternatively requests the Commission deem the Application filed as of today, July 7, 2023."

On July 12, 2023, the Executive Director issued a second letter to KAW stating that "The Commission Staff has reviewed the filing submitted July 07, 2023 and has determined that the application in the above case now meets the minimum filing requirements." The letter did not mention KAW's chief concern, which is that the Application fully complied with 807 KAR 5:001, Section 15(2)(f) when it was first filed on June 30, 2023.

KAW requests a ruling from the Commission on whether the Application was sufficient as of June 30, 2023 and KAW contends that it was. Deeming the Application deficient from June 30

¹ https://psc.ky.gov/pscecf/2023-00191/monica.braun%40skofirm.com/07072023013716/AMI_Supplemental_Response.pdf

to July 7 results in a week-long extension of the suspension period, which directly affects the date any rate increase would become effective. As KAW explained on July 7, 2023 and has explained above, its Application complied with 807 KAR 5:001, Section 15(2)(f) when filed on June 30, 2023 when it provided the estimated annual cost of operation of AMI after AMI is proposed to be fully “placed in service.” With all due respect, failing to deem it filed as of that date without substantial evidence to the contrary would be an arbitrary administrative action.²

WHEREFORE, KAW respectfully requests the Commission rule on its request to deem the Application filed as of June 30, 2023.

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² “Unless action taken by an administrative agency is supported by substantial evidence it is arbitrary.” *American Beauty Homes Corp. v. Louisville and Jefferson County Planning and Zoning Commission*, 379 S.W.2d 450, 456 (Ky. 1964)

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 July 14, 2023; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

BY: /s/Monica. H. Braun

Attorneys for Kentucky-American Water Company