

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-)
AMERICAN WATER COMPANY FOR AN) CASE NO. 2023-00191
ADJUSTMENT OF RATES)

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT’S
RESPONSE TO KAWC’S POST-HEARING BRIEF**

Lexington-Fayette Urban County Government (“LFUCG”), by counsel, hereby submits the following brief responding to the post-hearing brief of Kentucky-American Water Company’s (“KAWC”) rate case.¹

In its post-hearing brief, KAWC discussed several issues that were also addressed in LFUCG’s post-hearing brief. LFUCG relies on the arguments presented and incorporated in its post-hearing brief, including adoption of the opinions of Greg Meyer, and no additional elaboration on these issues is needed. LFUCG seeks to comment on one additional issue discussed in KAWC’s brief.

KAWC requests recovery of estimated rate case expense based on a two-year amortization period. LFUCG acknowledges that precedent from the United States Supreme Court and Commission supports KAWC’s position to recover reasonable rate case expenses in rates.² LFUCG likewise understands that entities incur legal expenses after the record of a rate case closes. It takes no position regarding the reasonableness of actual and estimated rate case expense that KAWC has incurred in this case, and relies on the expertise and experience of the

¹ Silence on any particular issue raised in this matter should not be construed as acceptance of KAWC’s proposal or treatment of that particular issue.

² *Kentucky-American Water Co.*, Case No. 2010-00036 at 46 n.143 and accompanying text (Ky. PSC December 14, 2010).

Commission to make a determination on the reasonableness of the actual and estimated expenses.

KAWC's proposed two-year amortization period of rate-case expense, however, is unreasonable and is not consistent with Commission precedent. "The Commission has historically amortized rate-case expense over the expected life of the rate approved in the case."³ In prior KAWC water rate cases, the Commission has commonly amortized general rate-case expenses over a three-year period.⁴

In prior KAWC water rate cases, KAWC has commonly requested a three-year amortization period.⁵ In fact, the Commission has noted that in a prior case, "Kentucky-American argues that longstanding Commission precedent supports the practice of amortizing over a three-year period reasonably incurred rate case expenses."⁶ In addition, KAWC has previously amortized expenses associated with depreciation studies over a 5-year period.

The Commission should reject KAWC's argument that a "two-year amortization period strikes a balance between customer impact and intergenerational equity, meaning the customers who will be paying the base rates established in this case are the customers from whom the rate case expense incurred to establish those rates are recovered."⁷ This is particularly true in light of one of KAWC's primary arguments supporting its Qualified Infrastructure Program ("QIP"). KAWC has suggested that its ability to refrain from filing requests for general increases in rates over an extended duration is largely based on its opportunity to more quickly recover investment

³ *Kentucky-American Water Co.*, Case No. 2021-00434 at 12 (Ky. PSC Sept. 2, 2022).

⁴ *See, e.g., Kentucky-American Water Co.*, Case No. 2018-00358 at 12 (Ky. PSC June 27, 2019).

⁵ *See* KAWC Application, Exhibit 37F at 9 (showing a three-year amortization period for its rate cases started in 2012, 2015, and 2018). This exhibit suggests that KAWC is requesting a 3-year amortization period; however, the direct testimony of Jeffrey Newcomb at 12 and Workpaper 3-6 confirms that KAWC is seeking a 2-year amortization period.

⁶ *Kentucky-American Water Co.*, Case No. 2010-00036 at 12 (Ky. PSC December 14, 2010).

⁷ *See* KAWC Post-Hearing Brief at 33.

in infrastructure replacement through its QIP.⁸ KAWC quickly points out that it has previously filed cases for a general increase in rates in 2007, 2008, 2010, 2012, 2015, and 2018.⁹ Although a utility might argue that a two-year amortization period is appropriate if it is reasonable to file six rate cases in eleven years, it is unreasonable to argue that a two-year amortization is appropriate when the utility can refrain from filing rate cases once every five years as a result of QIP.

In this case, KAWC has requested to expand its main replacement under its QIP to from the current 10-13 miles to 27-34 miles.¹⁰ As discussed in LFUCG's Post-Hearing Brief, the Commission should reject KAWC's proposed expansion of its QIP replacement program. Even if KAWC is authorized to maintain its current QIP replacement schedule of 10-13 miles annually, the Commission should set an amortization period for rate case expense that is commensurate with the frequency of KAWC's general rate cases while it has a QIP program.¹¹ KAWC's last rate-case application was filed approximately 55 months before the application was filed in this matter.

For the reasons discussed above and because "[t]he Commission has historically amortized rate-case expense over the expected life of the rate approved in the cases"¹², LFUCG respectfully requests the Commission utilize a 55-month amortization period for reasonable rate-case expense KAWC has incurred in this matter.

⁸ VR: 12/11/23; 11:34:17-11:36:33.

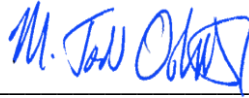
⁹ *Id.*

¹⁰ LFUCG's post-hearing brief contained a typographical error, suggesting that KAWC proposed to replace "27-24" miles of main, as opposed to 27-34 miles. See LFUCG Post-Hearing Brief at 6.

¹¹ If the Commission approves KAWC's request to expand its QIP infrastructure replacement (which LFUCG opposes), the Commission should also enlarge the rate-case amortization period.

¹² *Kentucky-American Water Co.*, Case No. 2021-00434 at 12 (Ky. PSC Sept. 2, 2022).

Respectfully submitted,



STURGILL, TURNER, BARKER & MOLONEY, PLLC

James W. Gardner

M. Todd Osterloh

Rebecca Price

333 W. Vine Street, Suite 1500

Lexington, Kentucky 40507

Telephone No.: (859) 255-8581

Facsimile No.: (859) 231-0851

jgardner@sturgillturner.com

tosterloh@sturgillturner.com

rprice@sturgillturner.com

and

Susan Speckert, Commissioner of Law

David J. Barberie, Managing Attorney

Department of Law

200 East Main Street

Lexington, Kentucky 40507

(859) 258-3500

sspeckert@lexingtonky.gov

dbarberi@lexingtonky.gov

*Attorneys for Lexington-Fayette Urban County
Government*