COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT'S POST-HEARING BRIEF**

Lexington-Fayette Urban County Government ("LFUCG"), by counsel, hereby submits the following post-hearing brief addressing several issues raised in Kentucky-American Water Company's ("KAWC") rate case.[1]

## I. Revenue Requirement

In its application, Kentucky-American Water Company ("KAWC") requested an increase of approximately $26.1 million or 22.7% of annual revenues net of the income generated from the Qualified Infrastructure Program ("QIP"). In Rebuttal Testimony, KAWC reduced its requested annual revenue increase to approximately $25.6 million.[2]

LFUCG and the Office of the Attorney General jointly sponsored the testimony of Greg R. Meyer, in which he initially determined that KAWC had overstated its annual revenue needs by at least $12.9 million.[3] After KAWC provided additional information, Meyer amended his testimony related to the capitalized payroll component of his Labor Adjustment.[4] LFUCG fully adopts

[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] Rebuttal Testimony of Jeffrey Newcomb at 2.
[3] Direct Testimony of Greg R. Meyer at 5.
[4] *See* OAG/LFUCG Response to KAWC's Post-Hearing Data Requests, Item 1.

Meyer's recommended adjustments, and they need not be repeated in this brief. LFUCG recommends that the Commission accept Meyer's proposed adjustments.

## II. Rate Design - Monthly Service Charge

KAWC's rates are divided into two components: a monthly service charge determined by the size of the customer's meter and a volumetric charge applied to consumption. KAWC proposes to increase its monthly service charges by 33% because, as stated by KAWC, the company wanted to increase both rate components by approximately the same percentage.[5] This would increase the monthly service charge for a typical residential customer using a 5/8-inch meter from $15.00 to $20.00.

There are several flaws in KAWC's argument. First and foremost, KAWC readily acknowledges that such a large increase to the monthly service charge is not justified by KAWC's cost-of-service study.[6] The following chart[7] compares the calculated rate from the cost-of-service study to KAWC's proposal in this case.

| Monthly Service Charge | | | |
|---|---|---|---|
| | | | |
| Item | Current Rate | Calculated Rate | KAW Proposed Rate |
| 5/8-METER | $ 15.00 | $ 18.00 | $ 20.00 |
| 3/4-METER | $ 22.40 | $ 23.46 | $ 29.80 |
| 1-METER | $ 37.30 | $ 37.27 | $ 49.60 |
| 1.5-METER | $ 74.70 | $ 65.14 | $ 99.40 |
| 2-METER | $ 119.50 | $ 100.79 | $ 158.90 |
| 3-METER | $ 224.00 | $ 188.12 | $ 297.90 |
| 4-METER | $ 373.40 | $ 287.24 | $ 496.60 |
| 6-METER | $ 746.70 | $ 561.61 | $ 993.10 |
| 8-METER | $ 1,194.70 | $ 892.29 | $ 1,589.00 |
| 10-METER | | $ 1,285.38 | |
| 12-METER | | $ 2,378.79 | |

[5] KAWC's Response to LFUCG's First Request for Information, Item 56(b).
[6] *Id.*
[7] The underlying data for the chart can be found in the "Mater Charge Calc" tab of the Excel file submitted by KAWC in response to the Commission's First Request for Information, Item 3, and KAWC's Customer Notice attached as Exhibit 7 to the application.

Notably, KAWC's proposed monthly service charge for its residential customers, who use 5/8-inch meters, is significantly higher than what KAWC's cost-of-service study suggests the monthly service charge should be.[8] KAWC's proposal is even more egregious when one looks to the charges listed in the table for 1-inch and larger meters. The chart shows that KAWC's *current* rates are higher than the cost-of-service study's calculated rate for all meters 1-inch and larger.

It must also be emphasized that the calculated monthly service charge in the cost-of-service is based on the expenses allocated to the service charge from meter expenses, service expenses, and customer-service expenses.[9] Any reduction of recoverable expenses would further lower the calculated rate well below the proposed rate.[10]

Second, KAWC's suggestion that a 33% increase to the monthly service charge is approximately the same as the overall requested revenue increase is based on the inclusion of QIP revenues, which are designed to further assist KAWC to replace aging transmission and distribution mains, not meters. However, the majority—if not the entirety—of expenses associated with QIP would not be allocated to the customer service charge.

Similarly, if the Commission approves KAWC's CPCN for AMI deployment, there is additional justification not to increase the monthly service charge. KAWC has stated that it does not expect to have reduced overall labor charges through the reduction of meter readers, but rather, that those positions would be repurposed to other duties.[11] If this occurred, those repurposed labor

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[8] The same is true for 3/4-inch meters, but no KAWC customer is served by a 3/4-inch meter. *See* "RevenueLink" tab of the Excel file submitted by KAWC in response to the Commission's First Request for Information, Item 3; *see also* Hearing Testimony of Charles Rea at VR: 12/11/23; 11:49:00-11:49:20.
[9] *See* "Mater Charge Calc" tab of the Excel file submitted by KAWC in response to the Commission's First Request for Information, Item 3.
[10] Hearing Testimony of Charles Rea at VR: 12/11/23; 11:49:54.
[11] *See generally* Hearing Testimony of William A. Lewis at VR: 12/13/23; 13:04.

expenses would most likely be shifted away from meters, further reducing expenses assigned to the monthly customer charge.

In summary, KAWC has not and cannot demonstrate that its proposed increase to the monthly customer charge is fair, just, and reasonable. There is no evidentiary support for the proposed increase, and it should be denied.

## III. Metering

KAWC is requesting a certificate of public convenience and necessity to deploy advanced metering infrastructure ("AMI"). LFUCG takes no position regarding whether KAWC has demonstrated a need for the AMI project or whether it would result in wasteful duplication. LFUCG, however, is opposed to allowing additional revenue in rates to enable KAWC to accelerate its periodic meter replacement program.

Section 16 of 807 KAR 5:066 requires water utilities to periodically test the accuracy of meters. For 5/8-inch meters, the regulation requires testing every 10 years. In Case No. 2009-00253, the Commission approved KAWC's request to extend the period by which to test 5/8" meters from 10 years to 15 years.[12] This extension was a by-product of a pilot study KAWC undertook from 1999 to 2008, upon which the Commission found KAWC's 15-year window appropriate.[13]

In the present case, KAWC now proposes to revert to a ten-year replacement program.[14] KAWC's proposal would result in 42,000 meters changed out in 2024,[15] in comparison to its

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[12] *Kentucky-American Water Co.*, Case No. 2009-00253 (Ky. PSC Nov. 5, 2011).
[13] *Id.* at 5-8.
[14] Although the administrative regulation only requires testing of a meter, KAWC indicated that it was more cost effective to simply replace the meter, rather than test it for accuracy.
[15] *See* Application, Exhibit A at 11. The number of replacements relate to 2-inch and smaller meters.

current timeline that would have 2,420 meter replacements.[16] KAWC proposes to replace an additional 18,000 meters in 2025.[17]

KAWC's proposal to change its routine meter replacements is conveniently timed with the filing of this rate case, in which the test year spans from February 2023 to January 2024. KAWC has included significantly more expenses associated with meters in this case than what it would have otherwise would have included with its 15-year replacement cycle, in part because it wants to replace nearly 40,000 more meters in 2024 than it otherwise would. In fact, KAWC acknowledged that the increased meter expense in this case is primarily driven by this increase in volume of replacements and the proposed change in depreciation and cost of removal rates.[18] These two factors have driven depreciation expense up nearly \$2 million—nearly a seven-fold increase—from \$326,595 to \$ 2,243,128.[19]

A comparison of KAWC's Advanced Metering Infrastructure Deployment Plan that was attached to the Application as Exhibit A and its depreciation study attached as LEK-1 to Larry Kennedy's testimony also raises questions about KAWC's analysis. Both the Deployment Plan and depreciation study were completed in June 2023. The Deployment Plan utilizes a 10% depreciation rate for meters,[20] whereas Kennedy proposes a 24.04% depreciation rate for the majority of meter assets, which are identified in account 334.100.[21]

For these reasons, LFUCG recommends that the Commission reduce meter depreciation expense from \$2,243,128 to \$326,595, which is a reduction of \$1,916,533, to reflect a more-reasonable approach to KAWC's routine meter replacement schedule. In addition to reducing the

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[16] KAWC's Response to LFUCG's First Request for Information, Item 68.
[17] *See* Application, Exhibit A at 11.
[18] KAWC's Response to LFUCG's First Request for Information, Item 77.
[19] *Id.*
[20] *See* Application, Exhibit A at 11 (Figure 9).
[21] *See* Direct Testimony of Larry Kennedy, Exhibit LEK-1 at 5-2 (Table 1).

overall revenue requirement, this adjustment would further support LFUCG's position that KAWC's monthly service charges should not be increased because meter expenses are primarily, if not entirely, allocated to the monthly service charge. If the Commission denies KAWC's CPCN for AMI deployment, there would be additional expenses to be removed for the difference in expenses related to AMI as opposed to AMR.[22]

## IV. Qualified Infrastructure Program

In Case No. 2018-00358, the Commission approved KAWC's QIP, which is a rate-adjustment mechanism whereby KAWC can more quickly recover investment costs for replacing aging infrastructure.[23] In the present case, KAWC proposes to expand its QIP by more than doubling the length of main to be replaced annually from the current 10-13 miles to 27-24 miles.[24]

One of the primary reasons relied on by KAWC to support the QIP is that QIP helps with a systematic approach for replacing aging infrastructure that can positively impact non-revenue water.[25] KAWC, however, has not demonstrated that its implementation of the QIP has improved its non-revenue water percentages. KAWC started its investment through the QIP in July 2020.[26] KAWC's non-revenue water, however, has not improved since KAWC began investing in the QIP in July 2020, as demonstrated by the following table[27] showing that KAWC's non-revenue water rolling average was 21.8% in July 2020 and 22.7% in December 2022.

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[22] *See* KAWC's Response to the Commission Staff's Third Request for Information, Item 6 (comparing in depreciation expense for AMI and AMR with the assumption of 42,000 meters being replaced in 2024).
[23] *See generally Kentucky-American Water Co.,* Case No. 2018-00358 at 73-84.
[24] *See* Application at 12, ¶30.
[25] Direct Testimony of Krista Citron at 8:17-9:3; Hearing Testimony of Krista Citron at VR: 12/11/23; 11:22:50.
[26] Hearing Testimony of Krista Citron at VR: 12/11/23; 11:22:30.
[27] KAWC's Response to Commission Staff's Second Request for Information, Item 79.

| 12-month NRW Rolling Average – Previous 10 Years | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sept | Oct | Nov | Dec |
| 2012 | 14.1 | 13.9 | 13.9 | 14.2 | 15.0 | 14.6 | 14.0 | 13.0 | 13.8 | 13.6 | 13.0 | 13.1 |
| 2013 | 13.3 | 13.0 | 13.1 | 13.1 | 12.3 | 11.1 | 11.8 | 12.5 | 13.8 | 13.9 | 14.4 | 14.4 |
| 2014 | 14.3 | 14.8 | 14.6 | 14.6 | 15.1 | 16.0 | 16.3 | 16.7 | 16.3 | 15.6 | 16.0 | 15.8 |
| 2015 | 15.5 | 16.0 | 16.1 | 15.5 | 15.7 | 15.3 | 14.6 | 14.9 | 15.3 | 15.3 | 15.0 | 15.0 |
| 2016 | 15.8 | 15.6 | 15.6 | 16.1 | 15.7 | 16.6 | 17.2 | 16.7 | 16.4 | 17.1 | 16.8 | 16.8 |
| 2017 | 17.1 | 16.2 | 16.7 | 17.0 | 17.0 | 16.7 | 17.2 | 17.5 | 17.0 | 17.6 | 17.9 | 18.6 |
| 2018 | 18.5 | 19.1 | 19.3 | 19.1 | 19.7 | 19.5 | 19.6 | 19.6 | 20.2 | 20.1 | 20.7 | 20.8 |
| 2019 | 20.8 | 20.9 | 20.9 | 22.4 | 22.0 | 22.1 | 22.9 | 23.1 | 24.5 | 23.3 | 22.9 | 22.8 |
| 2020 | 22.4 | 23.4 | 23.0 | 21.6 | 21.8 | 23.0 | 21.8 | 21.2 | 19.4 | 20.5 | 20.9 | 21.6 |
| 2021 | 22.0 | 21.9 | 22.6 | 22.9 | 22.7 | 22.0 | 21.9 | 22.6 | 22.8 | 23.1 | 22.8 | 22.1 |
| 2022 | 21.6 | 21.0 | 20.9 | 21.0 | 21.0 | 21.1 | 22.5 | 21.7 | 22.8 | 21.6 | 22.1 | 22.7 |

*Table reflects total NRW 12-month rolling average. KAWC does not track un-accounted for water 12-month rolling average.

This revelation is even more glaring given the considerable increase in infrastructure replacement that has occurred following the implementation of QIP. KAWC produced the following table[28] showing main-replacement miles (excluding QIP replacements) for the last 10 years.

| Year | Miles Replaced |
|---|---|
| 2013 | 1.54 |
| 2014 | 3.82 |
| 2015 | 3.39 |
| 2016 | 2.36 |
| 2017 | 1.80 |
| 2018 | 3.02 |
| 2019 | 1.80 |
| 2020 | 2.24 |
| 2021 | 0.71 |
| 2022 | 0.07 |

[28] KAWC's Response to Commission Staff's Post-Hearing Request for Information, Item 22.

For the seven years from 2013-2019, KAWC annually replaced approximately 2.5 miles of main on average. Following the implementation of QIP, it is replacing at least 10-13 miles of main per year (which is not shown in the table above).

This data also raises questions about KAWC's suggestion that the QIP is necessary in order to continue to replace, maintain, and upgrade its infrastructure to ensure that it continues to provide safe, reliable service. KAWC's Senior Project Engineer testified in response to the Chairman's questions that there is a need to make main replacement, regardless of whether there is a QIP in place, in the following exchange.

> **Chairman Chandler**: [KAWC's] plan to replace all this [aging infrastructure] is exclusively dependent on the QIP being expanded, is that right?"
>
> **Witness Citron**: No, not necessarily. Again, those investments are going to be made at some point.
> ….
>
> **Chairman Chandler**: Is the entire basis of the QIP that you all [KAWC] won't be able to do that in a planned basis without more near-time recovery of the costs?
>
> **Witness Citron**: Well, I cannot speak to that. Again, we are going to make the investments we need to make based on the pipes that need replacement.
> ….
>
> **Chairman Chandler**: [Referring to Citron's testimony on December 11, 2023], you talked about the 250 miles that are beyond their life, that it's not prudent to have that, and that the replacement of that is necessary. So I just want to make sure I understand your testimony—the replacement is necessary or is not necessary?
>
> **Witness Citron**: It is necessary, yes.
>
> **Chairman Chandler**: It needs to be replaced?
>
> **Witness Citron**: It does.
>
> **Chairman Chandler**: And it has not been replaced?

> **Witness Citron**: Not to date.
>
> …
>
> **Chairman Chandler**: Do you plan on addressing that need—again, you said that the replacement was necessary—addressing that need with or without QIP?
>
> **Witness Citron**: Again, it is a large gap that we are looking at. There is no way to replace 250 miles in a handful of years. It took many years to get to that point, and it will take many years to drive that number back down. So it will be replaced. Again, as it stands today, initially we have those funds in our budget for the next two years. What happens after that—with or without a QIP—is really not up to me. But, again, those mains, as they age, as they continue to break, are going to need to be replaced at some point. It just a matter of how they get prioritized.[29]

If it is necessary for KAWC to replace the mains in order to maintain safe and reliable service, KAWC should have been annually replacing more than 2.5 miles of main from 2013 to 2017 even without the QIP. KAWC did not, however, accelerate main replacement under "traditional" ratemaking mechanisms but, rather, only did so upon implementation of the QIP. KAWC's actions (and inactions) suggest that KAWC is merely utilizing the QIP to benefit its shareholders, rather than benefit its customers.

The Commission has also been skeptical of expansion of the QIP in prior cases. In Case No. 2021-00090, the Commission issued an order stating:

> The Commission further finds that, based on the 25-year replacement cycle, Kentucky-American should limit future QIP scheduled main replacement to 10–13 miles of main replaced each year. Any future deviations from the QIP approved by the Commission, such as an accelerated replacement cycle, accelerated spending totals, or including standalone non-main plant replacement projects, will be looked upon with extreme disfavor.[30]

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[29] Hearing Testimony of Krista Citron at VR: 12/13/23; 11:29:30-11:38:24.

[30] *Kentucky-American Water Co.*, Case No. 2021-00090 at 12 (Ky. PSC June 21, 2021).

Contrary to KAWC's suggestion otherwise,[31] the Commission clearly indicated that an accelerated replacement cycle will be scrutinized "with extreme disfavor."

Simply put, the evidence presented in this case does not support KAWC's request to more than double the QIP replacement rates, particularly in light of the Commission's prior statement that such a request would be looked upon with extreme disfavor. The Commission should deny KAWC's request to expand the QIP replacement schedule.

## V. Water Loss

KAWC requests a determination that the standard for ratemaking treatment of unaccounted-for water loss be increased from the regulatory standard of 15% to 20% for KAWC. KAWC has not produced evidence that there should be a special exemption for KAWC, in contrast to other water utilities in the Commonwealth, many of which provide service in mountainous territory that presents unique challenges.[32] Greg Meyer's recommendation to reduce KAWC's proposed revenue requirement related to the 15% regulatory threshold is well taken.

KAWC seemingly blames some or much of its water loss on 270 Special Connections throughout its system for its high water-loss percentage.[33] Regardless of the source, LFUCG believes that it is prudent for KAWC to investigate water loss, as a general matter of environmental responsibility, while still considering the cost-benefit analysis in its decision making.

## VI. Universal Affordability Program

KAWC proposes a Universal Affordability Program, whereby eligible residential customers with 5/8-inch meters are eligible to receive a discount on both the monthly service charge and the volumetric consumption rate. Residential customers would be eligible for a 60%

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[31] *See* Hearing Testimony of Krista Citron at VR: 12/11/23; 11:26:10.
[32] Hearing Testimony of William A. Lewis at VR: 12/11/23; 11:39:25-11:39:50.
[33] Direct Testimony of William A. Lewis at 34:15.

discount if their household income is 50% or less of the Federal Poverty Level or for a 20% discount if their household income is between 50% and 100% of the Federal Poverty Level. LFUCG supports KAWC's proposed Universal Affordability Program.

**VII. Conclusion**

LFUCG respectfully requests the Commission issue an order in this matter that is consistent with the foregoing issues.

Respectfully submitted,

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