

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-) CASE NO. 2025-00122
AMERICAN WATER COMPANY FOR AN)
ADJUSTMENT OF WATER RATES)

THE ATTORNEY GENERAL’S POST-HEARING BRIEF

The Intervenor, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention (“Attorney General”) submits the following Post-Hearing Brief to the Kentucky Public Service Commission (“Commission”) in the above-styled matter.

STATEMENT OF THE CASE

Kentucky-American Water Company, Inc. (“Kentucky American” or the “Company”) is a Kentucky corporation with its principal office and principal place of business in Lexington, Kentucky.¹ Kentucky American is a wholly-owned subsidiary of American Water Works Company, Inc. (“American Water”).² Kentucky American is engaged in the distribution and sale of water to over 139,500 customers³ in its Central Division – Bourbon, Clark, Fayette, Harrison, Jessamine, Nicholas, Scott, and Woodford Counties; Northern Division – Gallatin, Owen, Grant, and Franklin Counties; and Southern Division – Rockcastle and Jackson Counties.⁴ The Company owns, operates, and maintains potable water production, treatment, storage, transmission, and

¹ Application, paragraph 1.

² *Id.*, paragraph 2.

³ Direct Testimony of William A. Lewis (“Lewis Testimony”), page 3. Mr. Lewis states that the Company provides water utility service to over 139,500 water service connections, representing more than 550,000 total population served.

⁴ Application, paragraph 2.

distribution systems to provide water for residential, commercial, industrial, and governmental users in its service territory.⁵ In the pending case, Kentucky American forecasts 168 employees comprised of exempt, union hourly, and nonunion hourly employees.⁶ The Company has certain services such as accounting, customer service, engineering, legal, central lab testing services, human resources, etc. that are provided by American Water Works Service Company, Inc. (“Service Company”), which is an affiliated company.⁷

On April 16, 2025, Kentucky American filed its notice of intent to file an application for an adjustment of water rates with the Commission. The Company subsequently filed its application on May 16, 2025, utilizing a forward-looking test period (“forecast test year”) beginning on January 1, 2026, and ending December 31, 2026.⁸ The Company’s base period is the twelve months beginning on September 1, 2024, and ending on August 31, 2025.⁹ Specifically, the application requests an increase in water revenues of approximately \$26.9 million per year, in addition to requesting to roll-in \$9,949,970 of Qualified Infrastructure Program (“QIP”) revenues.¹⁰ Moreover, in the Company’s rebuttal testimony, in addition to a correction, there are a multitude of downward adjustments made to the following expenses: fuel and power; other customer accounting expense; office supplies and service expense; postage, printing, and stationary expense; and insurance other than group expense.¹¹

⁵ *Id.*

⁶ Lewis Testimony, pages 35 – 39; Direct Testimony of Robert Prendergast (“Prendergast Testimony”), page 3; Kentucky American’s response to the Attorney General’s Second Request for Information (“Attorney General’s Second Request”), Item 19.

⁷ Direct Testimony of Robert Burton (“Burton Testimony”), page 16.

⁸ Application, paragraph 5.

⁹ *Id.*, paragraph 6.

¹⁰ *Id.*, paragraph 9; Kentucky American’s response to the Attorney General’s First Request for Information (“Attorney General’s First Request”), Item 29(b); Direct Testimony of Dominic DeGrazia (“DeGrazia Testimony”), Exhibit DD-3.

¹¹ Rebuttal Testimony of Dominic DeGrazia (“DeGrazia Rebuttal”), pages 2 – 4.

According to Kentucky American, the requested rate increase equates to an approximately 19.9% increase in water revenues per year, net of QIP revenues.¹² The proposed revenue increase, net of QIP revenues, by customer classification are as follows: \$13,942,464 or a 18.8% increase for the residential class; \$6,636,729 or a 18.8% increase for the commercial class; \$827,944 or a 24.9% increase for the industrial class; \$2,236,971 or a 24.9% increase for the other public authority class; 468,544 or a 24.9% increase for the sales for resale class; \$1,209,793 or a 24.9% increase for the private fire service and hydrants class; \$1,415,542 or a 24.9% increase for the public fire hydrants class; \$18,564 or a 12.8% increase for the miscellaneous (bulk sales of water through loading stations”) class.¹³

Kentucky American’s proposed water rates will increase the monthly bill for an average residential customer using 3,942 gallons of water from \$47.67 to \$56.73, which equates to an \$9.06 increase, or a 19% increase.¹⁴ Kentucky American is also requesting to increase the monthly customer charge for both the residential and commercial class from \$17.55 to \$19.45, or an 11% increase.¹⁵ Kentucky American further requests tariff revisions and all other relief to which the Company may be entitled.¹⁶

The Commission issued a no deficiency letter on May 22, 2025. The Commission found that the application met the minimum filing requirements, and it was deemed filed on May 16, 2025. The Attorney General was granted intervention on May 6, 2025. The other party who was granted intervention into the pending case is Lexington-Fayette Urban County Government (“LFUCG”). Following the Commission’s issuance of a procedural schedule, the Commission

¹² Application, paragraph 9.

¹³ *Id.*, paragraph 10.

¹⁴ *Id.*, Exhibit 7, Customer Notice.

¹⁵ *Id.*

¹⁶ *Id.*, paragraph 10.

Staff and the parties issued several rounds of discovery requests, to which Kentucky American filed responses into the record. On August 13, 2025, the Attorney General and LFUCG filed direct testimonies into the record of their witnesses, Mr. John Defever and Mr. Richard A. Baudino. The Attorney General and LFUCG responded to both Commission Staff's and Kentucky American's discovery requests on September 8, 2025. The Company filed a base period update and rebuttal testimony on September 15, 2025. An evidentiary hearing was conducted on September 23, 2025. Kentucky American filed responses to post-hearing discovery requests on October 6, 2025, and on October 21, 2025.

ARGUMENT

Pursuant to KRS 278.190(3), Kentucky American bears the burden of proof to demonstrate “that an increase of rate or charge is just and reasonable.”¹⁷ Kentucky American has failed to meet its burden.¹⁸ The Attorney General recommends a downward adjustment to the revised requested \$26.9 million revenue increase, net of QIP, because if the Company's application were accepted as is, then it would result in unjust, unfair, and unreasonable rates due to the following issues.

I. PROPOSED REVENUE REQUIREMENT ADJUSTMENTS

a. The Company's proposed payroll for the forecasted test period should be reduced to a more reasonable level.

Kentucky American is requesting \$16,955,288 in payroll expense for the forecasted test period in the pending case.¹⁹ Yet, as demonstrated in the following table, when comparing the payroll budget versus actual expense for the past five years, the Company has been under the

¹⁷ *Kentucky-American Water Company v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737, 741 (Ky. 1993).

¹⁸ *See* KRS 278.190. “At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility....”; *See* KRS 278.030(1). “Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person.”

¹⁹ Kentucky American's response to the Attorney General's Second Request, Item 37; Direct Testimony of John Defever (“Defever Testimony”), pages 6 – 9.

budgeted amount each and every year, for a total of \$5.6 million underbudget, or 6.05%. As such, it should not be assumed that the Company will spend the forecasted budgeted payroll amounts.

Payroll Budget to Actual							
	2020	2021	2022	2023	2024	Total	%
Budget	\$ 17,667,645	\$ 17,714,978	\$ 18,960,934	\$ 18,866,234	\$ 19,213,637	\$ 92,423,428	
Actual	\$ 16,510,565	\$ 16,419,177	\$ 16,701,296	\$ 18,115,670	\$ 19,084,537	\$ 86,831,245	
Underspent	\$ (1,157,080)	\$ (1,295,801)	\$ (2,259,638)	\$ (750,564)	\$ (129,100)	\$ (5,592,183)	6.05%

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Additionally, Kentucky American is seeking to include costs associated with vacant employee positions in the pending rate case.²¹ As shown in the below table, the Company has averaged 5.5 vacancies during the years 2020 – 2024, with as high as 10.9 vacancies in 2024.

Historic Budget to Actual Employee Count													
	2020												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVG
Budget	150	150	150	150	150	150	150	150	150	150	150	150	150.0
Actual	141	139	143	146	147	147	146	147	147	145	145	143	144.7
Under	(9)	(11)	(7)	(4)	(3)	(3)	(4)	(3)	(3)	(5)	(5)	(7)	(5.3)
	2021												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVG
Budget	151	151	151	151	151	151	151	151	151	151	151	151	151.0
Actual	143	142	139	139	139	143	142	144	147	148	146	144	143.0
Under	(8)	(9)	(12)	(12)	(12)	(8)	(9)	(7)	(4)	(3)	(5)	(7)	(8.0)
	2022												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVG
Budget	151	151	151	151	151	151	151	151	151	151	151	151	151.0
Actual	143	144	146	144	149	153	151	149	151	150	152	151	148.6
Under	(8)	(7)	(5)	(7)	(2)	2	0	(2)	0	(1)	1	0	(2.4)
	2023												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVG
Budget	148	148	148	148	148	152	152	152	152	152	152	152	150.3
Actual	153	153	152	152	152	151	149	149	148	146	146	146	149.8
Under	5	5	4	4	4	(1)	(3)	(3)	(4)	(6)	(6)	(6)	(0.6)
	2024												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVG
Budget	153	153	153	153	153	153	153	153	153	152	152	152	152.8
Actual	145	144	145	144	143	141	141	141	142	141	139	136	141.8
Under	(8)	(9)	(8)	(9)	(10)	(12)	(12)	(12)	(11)	(11)	(13)	(16)	(10.9)
Average 2020-2024													(5.5)
Vacancy Percentage													3.6%

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Vacant positions represent ratepayer funding for payroll, benefits, and payroll tax costs for

²⁰ Defever Testimony, page 7.

²¹ Kentucky American's response to the Attorney General's Second Request, Item 10.

²² Defever Testimony, page 8.

nonexistent employees. It would be inherently unfair to force Kentucky-American's customers to pay a water rate that includes vacant employee position costs because those costs are not currently being expended, are merely speculative, and there is no guarantee that the positions will be filled. Further, it is clear from the prior chart that the Company generally does not operate with zero vacancies for a full calendar year. In other words, the fact that Kentucky American currently has vacant positions is in line with the Company's historical and normal operations. Further, the Company stated that payroll was calculated using the same method as the prior case, so similar overbudgeting can be expected.²³ It should also be noted that the Company requests costs for 168 employees but, as shown in the above chart, has never had more than 153 employees, and also never averaged more than 150 employees in any of the prior five years.

The Company contended in rebuttal testimony²⁴ and at the hearing²⁵ that the Commission has repeatedly denied the Attorney General's recommendation to exclude costs associated with vacant employee positions. Yet, Kentucky American fails to discuss the Commission's Final Order in Case No. 2022-00147, in which the Commission stated that it agreed with the Attorney General's recommendation, and the utility's acceptance of the same, for the expense associated with a vacant employee position to be eliminated from the revenue requirement.²⁶ The Company further argues that they can either assume no vacancies and adjust overtime, temporary employee, and contractor expenses accordingly, or assume a vacancy rate and include increased expense for overtime, temporary employees, and contractor expenses to complete the work.²⁷ However, after careful review of the evidentiary record, it does not appear that this assertion is accurate. Even

²³ Kentucky American's response to the Attorney General's Second Request, Item 43.

²⁴ Rebuttal Testimony of William A. Lewis ("Lewis Rebuttal"), pages 2 – 4.

²⁵ Video Transcript of Evidence ("VTE"), 3:25:25 – 3:27:05.

²⁶ Case No. 2022-00147, *Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates and a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure* (Ky. PSC Apr. 12, 2023), Final Order, page 27.

²⁷ Lewis Rebuttal, page 2.

though Kentucky American consistently has vacancies, it does not appear to result in a correlating increase in the expense for overtime, temporary employees, or contractor expenses.²⁸ The table below shows vacancies, temporary employees/contractor expenses, and overtime expenses for the years 2020-2024.²⁹

	2020	2021	2022	2023	2024
Vacancies	5.3	8	2.4	0.6	10.9
Contractors & Temp	\$57,169	\$46,146	\$58,939	\$120,117	\$84,343
Overtime	\$979,116	\$1,126,681	\$1,353,622	\$1,721,548	\$1,595,298
Total	\$1,036,285	\$1,172,827	\$1,412,561	\$1,841,665	\$1,679,641

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As shown above, there is no clear correlation between increases and decreases in vacancies and increases and decreases in contractors/temporary help and overtime costs. For example, from 2023 – 2024 vacancies increased, but the total costs related to contractors/temporary help, and overtime decreased. Similarly, from 2021 to 2022 and from 2022 to 2023 vacancies decreased while total costs for contractors/temporary help and overtime increased. The individual categories of contractors/temporary help and overtime also fail to show a correlation with increases or decreases in vacancies.

Due to the Company averaging 3.6% vacancies for the years 2020 – 2024, the Attorney General recommends a reduction of 3.6% to payroll expense.³¹ This represents a reduction of \$610,390, which would reduce the forecasted test period revenue requirement by \$614,211 after the gross up for uncollectible, regulatory assessment fees, and taxes.³² In the alternative, if the

²⁸ VTE 3:20:10 – 3:21:03.

²⁹ Kentucky American’s response to the Commission Staff’s First Request for Information (“Staff’s First Request”), Item 28; Kentucky American’s response to the Attorney General’s First Request, Items 144 and 170; Kentucky American’s response to the Attorney General’s Supplemental Post-Hearing Request for Information (“Attorney General’s Supplemental Post-Hearing Request”), Item 1.

³⁰ Kentucky American’s response to the Staff’s First Request, Item 28; Kentucky American’s response to the Attorney General’s First Request, Items 144 and 170; Kentucky American’s response to the Attorney General’s Supplemental Post-Hearing Request, Item 1.

³¹ Defever Testimony, page 9.

³² *Id.*

Commission denies the proposed 3.6% reduction based on vacancies, then the Attorney General recommends a 6.05% reduction to payroll expense based upon the Company's historical record of overbudgeting payroll expense.³³

Based upon the foregoing, the Attorney General is concerned that the budgeted, forecasted payroll expense far exceeds the actual, necessary payroll expense. This means that the ratepayers are receiving no benefit for these additional amounts being paid for in rates, and Kentucky American is being unjustly enriched. The Attorney General therefore requests a reduction of 3.6% to the budgeted, forecasted payroll expense based upon vacancies. In the alternative, the Attorney General requests a 6.05% reduction to the budgeted, forecasted payroll expense based upon the historical record of overbudgeting payroll expense.

b. The Company's incentive compensation tied to financial performance should be removed from the proposed revenue requirement.

Kentucky American is requesting full recovery of its incentive compensation costs in the amount of \$3,171,584 in the pending case.³⁴ Kentucky American's parent company, American Water, offers an annual performance plan ("APP") and a long-term performance plan ("LTPP").³⁵ All full-time employees participate in the APP, but eligibility for the LTPP is limited to certain exempt employees.³⁶ The Company asserts that \$1,846,694 of the forecasted incentive compensation expense is related to financial goals (\$933,538 or 50% of the APP, and \$913,156 or 70% of the LTPP.)³⁷

Incentive compensation based on financial goals primarily benefits Kentucky American's shareholders, and not the ratepayers. Due to shareholders being the primary beneficiaries of

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*; Lewis Testimony, page 42.

³⁶ Lewis Testimony, page 42.

³⁷ Defever Testimony, page 10.

financial goals, it is the shareholders who should be responsible for the costs of the incentive compensation tied to said financial goals – not the ratepayers.³⁸

Moreover, as the below table demonstrates, every single eligible employee received incentive compensation each and every year for the years 2020 – 2024.³⁹ Incentive compensation should create motivation for employees to provide extra effort, but if every employee receives the incentive compensation year after year, the amount of incentive on behalf of the employees is reduced.⁴⁰ Thus, if the incentive compensation plan not tied to financial measures does not result in additional effort from employees then ratepayers are not being benefitted.⁴¹

Incentive Compensation		
	Eligible	Received
2020	139	139
2021	147	147
2022	145	145
2023	154	154
2024	142	142

⁴²

The Company argues in its rebuttal testimony that the financial measures of the APP and LTPP serve to align the interests of the customers, employees, and investors.⁴³ This argument falls flat because incentive compensation tied to financial measures that incentivize achievement of shareholder goals for maximizing return on their investments, is in direct contradiction to ratepayer goals of improved service, safety, and reduced rates.

Kentucky American also fails to provide any Commission precedent that supports their request to require customers to pay for incentive compensation tied to financial metrics in rates. In

³⁸ *Id.*

³⁹ *Id.*, page 11.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*; Kentucky American's response to the Attorney General's First Request, Item 108.

⁴³ Lewis Rebuttal, page 11.

fact, the Commission has long-standing precedent of disallowing recovery of these costs.⁴⁴ In Kentucky American's last rate case, Case No. 2023-00191, the Commission stated that, "[w]hile Kentucky-American contended that the total compensation is market competitive, the Commission finds that the adjustment to remove incentive compensation based on financial performance metrics should be approved, consistent with precedent."⁴⁵ The Commission further held that, "[i]ncentive compensation plans tied to financial performance measures overwhelmingly benefit shareholders over customers, and customers should not bear the expense of those plans."⁴⁶ It is also important to note that of the thirteen regulated states that American Water subsidiaries operate in,⁴⁷ only four states approve full recovery of the incentive compensation.⁴⁸

Based upon the foregoing, the customers should not be forced to pay for incentive compensation that is directly tied to financial metrics. Instead, these costs should be borne by shareholders. The Attorney General recommends disallowing the portion of incentive compensation tied to financial metrics that primarily benefit the shareholders and does not provide measurable benefits to the ratepayers. Due to the shareholders being the primary beneficiaries of these programs, it is appropriate to assign the funding of the same to the shareholders.

⁴⁴ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, page 17; Case No. 2018-00358, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC June 27, 2019), Final Order at 43; Case No. 2020-00160, *Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates* (Ky. PSC Dec. 8, 2020), Final Order at 19 – 20; Case No. 2014-00396, *Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (3) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief* (Ky. PSC June 22, 2015), Final Order at 25.

⁴⁵ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, page 17.

⁴⁶ *Id.*

⁴⁷ <https://amwater.com/corp/about-us/our-states-subsidiaries>.

⁴⁸ Kentucky American's response to the Attorney General's First Request, Item 109.

The Attorney General therefore requests the Commission follow its long-standing precedent to exclude the Company's incentive compensation tied to financial metrics from the revenue requirement. This recommendation reduces the forecasted test period expense by \$1,846,694, which would reduce the forecasted test period revenue requirement by \$1,858,253 after the gross up for uncollectible, regulatory assessment fees, and taxes.⁴⁹

c. The Commission should disallow the Company's proposed employee stock purchase plan ("ESPP") discounts to be included in the forecasted test period.

Kentucky American is requesting \$61,961 of ESPP discount costs to be included in the forecasted test period in the pending case.⁵⁰ The ESPP expense relates to the Company's funded discount on American Water stock purchases that are made by participating employees through voluntary payroll deductions.⁵¹ Under the ESPP, participants currently may purchase shares of American Water common stock at a 15% discount.⁵² The employees who choose to participate in a purchase period elect a contribution of 1% to 10% of after-tax compensation, for the discounted purchase of American Water common stock, subject to a maximum of \$25,000 per year.⁵³ All employees are eligible for the ESPP.⁵⁴

The proposed ESPP expense should be denied from rates utilizing the same reasoning applied to the incentive compensation tied to financial metrics – ratepayers do not benefit from the ESPP. Kentucky American argues in its rebuttal testimony that it does not agree with the Attorney General's recommendation to remove the ESPP discount costs from the rates because this program is part of a total remuneration essential to attracting and retaining qualified employees.⁵⁵ Yet, the

⁴⁹ Defever Testimony, page 12.

⁵⁰ *Id.*, pages 12 – 13; Kentucky American's response to the Attorney General's First Request, Item 92.

⁵¹ Prendergast Testimony, page 9.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Kentucky-American's response to the Attorney General's First Request, Item 49; Kentucky-American's response to the Attorney General's Second Request, Item 44.

⁵⁵ Rebuttal Testimony of Robert V. Mustich ("Mustich Rebuttal"), pages 7 – 8.

Company provides no evidence that it would lose employees without the ESPP, nor did it provide a detailed explanation of how the ESPP specifically benefits customers. Even more important, Kentucky American also fails to provide any Commission precedent that supports their request to require customers to pay for the ESPP costs. In fact, in Kentucky American's prior rate case, the Commission found that, "Kentucky-American's ESPP discounts should be removed from the test year because it is not reasonable to recover from ratepayers as they do not benefit from the program."⁵⁶ Based upon the foregoing, the customers should not be forced to pay for the ESPP expense.

The Attorney General therefore requests the Commission follow precedent to exclude the Company's ESPP expense from the revenue requirement. This recommendation reduces the forecasted test period expense by \$61,961, which would reduce the forecasted test period revenue requirement by \$62,349 after the gross up for uncollectible, regulatory assessment fees, and taxes.⁵⁷

d. The Commission should reduce the proposed revenue requirement for the Company's unaccounted-for water loss above 15% pursuant to 807 KAR 5:066, Section 6(3).

Kentucky American did not make the appropriate adjustment in the forecasted test period for the unaccounted-for water loss above 15% as is required by 807 KAR 5:066, Section 6(3).⁵⁸ When asked in discovery, the Company admitted as much by stating that it, "did not reflect any reductions to the purchased water, waste disposal, chemical and fuel and power expenses."⁵⁹

Unaccounted-for water loss is water that is purchased or produced, but is lost through leaks

⁵⁶ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, page 25.

⁵⁷ Defever Testimony, page 14.

⁵⁸ *Id.*, page 15.

⁵⁹ Kentucky-American's response to the Attorney General's First Request, Item 173.

or unauthorized usage in the distribution system. The Commission has defined unaccounted-for water loss as, “the difference of the total amount of water produced and purchased and the sum of water sold, water used for fire protection purposes, and water used in treatment and distribution operations (e.g., backwashing filters, line flushing).⁶⁰ 807 KAR 5:066, Section 6(3), provides the Commission’s standard for unaccounted-for water loss as follows:

For rate making purposes a utility’s unaccounted-for water loss shall not exceed fifteen (15) percent of total water produced and purchased, excluding water used by a utility in its own operations. Upon application by a utility in a rate case filing or by separate filing, or upon motion by the commission, an alternative level of reasonable unaccounted-for water loss may be established by the commission. A utility proposing an alternative level shall have the burden of demonstrating that the alternative level is more reasonable than the level prescribed in this section.⁶¹

The Company provided its historical unaccounted-for water loss percentages, which are reproduced in the following table.⁶² As can be seen from the below table, while unaccounted-for water loss percentages have declined in recent years, they are still above the 15% standard.⁶³ In fact, the Company admits that it had not been under the 15% threshold since 2015.⁶⁴

Year	Unaccounted for Water %
2016	15.69%
2017	18.86%
2018	19.95%
2019	21.10%
2020	20.47%
2021	21.09%
2022	21.59%
2023	18.83%
2024	17.96%
June 2025 YTD	20.20%
12 Months ended 6/2025	17.90%

⁶⁵

⁶⁰ Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky’s Jurisdictional Water Utilities* (Ky. PSC Nov. 22, 2019), Final Order, pages 3 – 4.

⁶¹ <https://apps.legislature.ky.gov/law/kar/titles/807/005/066/>.

⁶² Defever Testimony, page 16.

⁶³ *Id.*

⁶⁴ Kentucky-American’s response to the Attorney General’s First Request, No. 178.

⁶⁵ Lewis Testimony, pages 32 – 33; Forecasted Test Period calculated from workpaper titled KAWC 2025 Rate Case – Exhibits (25, 26, 37) in Kentucky-American’s response to the Staff’s First Request, Item 1.

In Case No. 2023-00191, the Commission made an adjustment for unaccounted-for water loss by reducing the following expenses: fuel and power, chemicals, purchased water, and waste disposal by the percentage above the 15% threshold.⁶⁶ Based upon the evidentiary record, as well as Commission precedent, the Attorney General recommends that the aforementioned cost categories be reduced by 3.40%, which is the amount of unaccounted-for water above the 15% threshold (18.40% - 15%).⁶⁷

In rebuttal testimony, the Company argues that 17.24% unaccounted-for water loss should be used to calculate the disallowed expenses associated with unaccounted-for water loss instead of 18.40%.⁶⁸ However, the Attorney General's recommendation as to the unaccounted-for water loss reduction was calculated in the same manner as the Commission's adjustment in Case No. 2023-00191.⁶⁹

Thus, the Attorney General recommends the Commission disallow the expense associated with unaccounted-for water loss above 15%. This recommendation would reduce the Company's forecasted test period expense by \$394,049, which reduces the revenue requirement by \$396,515 after the gross up for uncollectible, regulatory assessment fees, and taxes.⁷⁰

e. The Commission should reduce the Company's rate case expense request to a more reasonable level.

Kentucky American is requesting recovery of \$941,449 annually for rate case expense.⁷¹ This amount is comprised of \$332,246 rate case expense from the 2023 rate case, and \$609,202,

⁶⁶ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, pages 19 – 22.

⁶⁷ Defever Testimony, pages 16 – 17.

⁶⁸ Rebuttal Testimony of Robert Prendergast ("Prendergast Rebuttal"), pages 9 – 10.

⁶⁹ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, pages 19 – 22.

⁷⁰ Defever Testimony, page 17.

⁷¹ *Id.*, page 18.

which is the forecasted rate case expense of \$1,218,404 in the pending case, amortized over two years.⁷²

The Attorney General has two concerns with the Company's proposed rate case expense. First, the Commission has long-standing precedent requiring a utility to amortize rate case expense over a three-year period, and to only allow actual rate case expense to be recovered opposed to estimated rate expense.⁷³ In fact, in Kentucky American's 2023 rate case, the Commission denied the Company's request to amortize rate case expense over two years, and stated that, "a three-year amortization period is standard and Kentucky-American has stated that the QIP will delay rate cases, such that a two-year amortization period is unreasonable."⁷⁴ The Commission further found that, "rate case expenses should be based on the actual expenses of \$1,059,527, less witness preparation expenses of \$62,787, and amortized over three years. The Commission has found that witness preparation expenses should not be recovered from ratepayers as they receive no benefit from these expenses."⁷⁵ Kentucky American continues to have the QIP, and has stated that it does not have an anticipated timeline as to when it will file the next rate case. The three-year amortization period for rate case expense is also reasonable when reviewing the Company's rate case history from 2010 – 2025, which is an average of 3.1 years between each case.⁷⁶

Hence, the Commission should continue to adhere to its precedent and only allow the actual rate case expense to be recovered, amortized over three years, less witness preparation expenses. Only taking into consideration the proposed estimated rate case expense for the pending case, and

⁷² *Id.*

⁷³ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, pages 22 – 23.

⁷⁴ *Id.*, pages 22 – 23.

⁷⁵ *Id.*, page 23.

⁷⁶ Defever Testimony, page 19.

then amortizing over three years, would reduce the forecasted test period expense by \$203,067.⁷⁷ This proposed adjustment does not take into account if the actual rate case expense is less than the estimated rate case expense, or the reduction of witness preparation fees because they are not currently known.

The second concern is with Kentucky American's proposed request to over recover the prior rate case expense from the 2023 rate case. In the 2023 rate case, Kentucky American was allowed \$996,740 of rate case expense to be amortized over three years, but because the Company filed this rate case in only two years, \$332,246 has not been recovered.⁷⁸ The Attorney General is not asserting that Kentucky American should not recover the full \$332,246, but instead is arguing that the Company should not be allowed to recover triple that amount.⁷⁹ Kentucky American is requesting to receive \$332,246 in the rates, each and every year, until the next rate case.⁸⁰ If the Commission grants Kentucky American's request then the ratepayers will pay the full \$332,246 of prior rate case expense that is owed by the end of the first year.⁸¹ The ratepayers will then begin overpaying the prior rate case expense at the beginning of the second year, which will harm the ratepayers and enrich Kentucky American.⁸² This will lead to an inequitable result.

For example, if Kentucky American does not file another rate case for three years, then the Company will receive almost \$1,000,000 in prior rate case expense from the ratepayers, even though all that remains to be recovered is \$332,246. Thus, the Attorney General recommends for the prior rate case expense of \$332,246 to be amortized over the same three-year period that the pending rate case expense will be amortized over.⁸³ Under this proposal, the Company will fully

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*, pages 19 – 20.

⁸² *Id.*

⁸³ *Id.*

collect the prior rate case expense, but not over collect the prior rate case expense. This would lead to an equitable result between Kentucky American and the ratepayers. If the Commission accepts this recommendation then it reduces the forecasted test period by \$221,497. Even though Kentucky American asserted in rebuttal testimony that it did not agree with the Attorney General's recommendations as to rate case expense, the Company provided no Commission precedent to support its opposition.⁸⁴

Based upon the foregoing, the Attorney General respectfully requests the Commission only allow actual rate case expense to be recovered, less witness preparation expense, and prior and pending rate case expense be amortized over three years. If the recommendations to the rate case expense of amortizing over three years are accepted then it would reduce rate case expense by \$424,566, which is a reduction to the forecasted test period revenue requirement of \$427,223 after the gross up for uncollectible, regulatory assessment fees, and taxes.⁸⁵

f. The Commission should exclude business development, government affairs, and regulatory policy expenses from Kentucky American's revenue requirement.

Kentucky American includes \$685,734 in costs for business development, government affairs, and regulatory policy in the revenue requirement in the pending case with \$213,516 attributed to shared services.⁸⁶ The Attorney General opposes the shared services portion of the business development costs to be recovered by the Company in the revenue requirement. Commission precedent fully supports the disallowance of the shared services business development costs. The Commission has repeatedly denied the inclusion of shared services business development expenses from Kentucky American's revenue requirement. In Case No. 2018-00358, the Commission disallowed said costs by stating, "[a]s with the Commission's

⁸⁴ DeGrazia Rebuttal, pages 5 – 6.

⁸⁵ Defever Testimony, page 20.

⁸⁶ *Id.*, page 20 – 21.

previous decisions concerning business development costs, it is the Commission’s belief that external affairs and public policy costs enhance shareholder value but do not benefit ratepayers, and therefore should not be costs borne by ratepayers.”⁸⁷ Similarly, in Case No. 2023-00191, the Commission disallowed the shared services business development expense and stated that, “allocated business development expenses are not specific to Kentucky-American’s development efforts.”⁸⁸

Kentucky American attempts to argue that the business development activities, and therefore the associated costs, benefit customers “directly and indirectly” by mitigating the costs to be recovered per customers, enhancing purchasing power, and spurring activities that contribute to the local economies.⁸⁹ These general assertions made by the Company do nothing to disprove the Commission’s prior finding that Kentucky American’s business development costs enhance shareholder value, do not benefit the ratepayers, and therefore the costs should not be borne by the ratepayers. Nor does the Company provide any evidence suggesting that customer growth can be definitively proven to be the result of these business costs or efforts.

Thus, the Attorney General requests the Commission to deny inclusion of all proposed shared services business development costs from the Company’s revenue requirement. If this recommendation is accepted then it would reduce the expense by \$213,516, which would reduce the forecasted test period revenue requirement by \$214,852 after the gross up for uncollectibles, regulatory assessment fees, and taxes.⁹⁰

⁸⁷ Case No. 2018-00358, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC June 27, 2019), Final Order, pages 40 – 41.

⁸⁸ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, page 22.

⁸⁹ Prendergast Rebuttal, page 11.

⁹⁰ Defever Testimony, page 22.

g. The Commission should disallow the 401(k) expense for employees who are also participating in a defined benefit plan.

Kentucky American includes \$40,950 for 401(k) expenses for employees who are also covered under a defined benefit plan in the forecasted test period in the pending case.⁹¹ The Attorney General opposes the inclusion of said 401(k) expenses for these employees as it will not lead to fair, just, or reasonable rates. The Commission has long-standing precedent to only allow the costs associated with the more expensive retirement plan to be included in rates, thereby disallowing the costs associated with the less expensive retirement plan. For example, in the Final Order of Case No. 2016-00169, the Commission stated:

The Commission believes all employees should have a retirement benefit, but finds it *excessive and not reasonable* that Cumberland Valley continues to contribute to both a defined-benefit pension plan as well as a 401 (k) plan for salaried employees. The Commission will allow Cumberland Valley to recover only the costs of the more expensive defined-benefit plan for the salaried employees and the 401 (k) plan for union employees. Accordingly, the Commission will remove for ratemaking purposes Cumberland Valley's test-year 401(k) contributions for salaried employees.⁹²

Moreover, in the Company's 2018 rate case, Case No. 2018-00358, the Commission disallowed the inclusion of the 401(k) costs for employees with two retirement plans and stated, "[p]ermitting utility employees to participate in multiple pension plans simultaneously while many ratepayers have no pension plan at all, is not fair, just, or reasonable."⁹³ Although Kentucky American disagrees with the Attorney General's recommendation to disallow these duplicative retirement costs, in rebuttal testimony the Company provided no Commission precedent to support the objection.⁹⁴

⁹¹ *Id.*

⁹² Case No. 2016-00169, *Application of Cumberland Valley Electric, Inc. for a General Adjustment of Rates* (Ky. PSC Feb. 6, 2017), Final Order, page 10. (emphasis added).

⁹³ Case No. 2018-00358, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC June 27, 2019), Final Order, page 46.

⁹⁴ Prendergast Rebuttal, pages 6 – 8.

The Attorney General recommends the Commission follow long-standing precedent, and disallow the costs associated with the 401(k) plans for employees who are participating in two retirement plans. If these costs were allowed to be included in rates, it would lead to an unfair result because as the Commission so wisely stated, many of Kentucky American's ratepayers have no pension plan at all, let alone two or more pension plans. If the Commission accepts this recommendation then it would reduce the forecasted test period expense by \$40,950, which reduces the forecasted test period revenue requirement by \$41,206 after the gross up for uncollectibles, regulatory assessment fees, and taxes.⁹⁵

h. The Commission should disallow Kentucky American's proposed growth factor to specific categories of expenses.

Kentucky American applied a growth factor of 5.16% to the following categories of expenses: Service Company (non-labor costs), contracted services, building maintenance and services, telecommunication, office supplies and services, employee related, miscellaneous, rents, customer accounting, and maintenance supplies and services.⁹⁶ This results in increased expenses of \$698,109.⁹⁷ Kentucky American asserts that it developed the Operations and Maintenance ("O&M") growth factor in response to the Commission's directive from the prior rate case to employ a forecasting methodology that is more reflective of the Company's experience than using general consumer price index ("CPI") inflationary factors.⁹⁸ The Company asserts that the O&M growth factor was determined by reviewing the Company's historical expense levels for years 2021 – 2024 for the aforementioned categories of expenses.⁹⁹ These expenses were then totaled

⁹⁵ Defever Testimony, page 24.

⁹⁶ Prendergast Testimony, pages 21 – 22.

⁹⁷ Kentucky-American's response to the Attorney General's Second Request, Item 47.

⁹⁸ Prendergast Testimony, pages 21 – 22.

⁹⁹ *Id.*

for each year, 2021 – 2024 to smooth outlier expense increases.¹⁰⁰ The total expense levels for 2021 – 2024 were then used to calculate the Company’s O&M Growth Factor of 5.16%.¹⁰¹

However, when reviewing Kentucky American’s historical spending in these specific cost categories the Company has applied a growth factor to, which is reproduced in the following table, it appears that the costs fluctuate over time, with actual decreases from 2020 – 2021, and 2021 – 2022.¹⁰² As such, it should not be assumed that a growth factor adjustment is needed for the forecasted test year.

Description	\$000s							Base Year	Forecast Test Year
	2018	2019	2020	2021	2022	2023	2024		
Support Services	\$ 9,808	\$10,467	\$11,772	\$12,044	\$11,450	\$11,978	\$13,278	\$14,048	\$14,822
Contracted Services	\$ 1,006	\$ 889	\$ 850	\$ 930	\$ 831	\$ 1,584	\$ 1,672	\$ 1,617	\$ 1,728
Building Maintenance and Services	\$ 750	\$ 772	\$ 843	\$ 845	\$ 852	\$ 1,094	\$ 1,160	\$ 1,524	\$ 1,629
Telecommunication Expenses	\$ 278	\$ 245	\$ 292	\$ 235	\$ 256	\$ 274	\$ 351	\$ 305	\$ 326
Office Supplies and Services	\$ 283	\$ 374	\$ 435	\$ 228	\$ 293	\$ 231	\$ 224	\$ 302	\$ 343
Employee Related Expense	\$ 169	\$ 183	\$ 60	\$ 84	\$ 347	\$ 127	\$ 122	\$ 195	\$ 236
Miscellaneous Expenses	\$ 516	\$ 1,166	\$ 1,229	\$ 994	\$ 723	\$ 1,239	\$ 791	\$ 1,142	\$ 1,162
rents	\$ 65	\$ (4)	\$ 31	\$ 30	\$ 44	\$ 46	\$ 59	\$ 62	\$ 67
Customer Accounting, Other	\$ 1,233	\$ 1,318	\$ 158	\$ 132	\$ 122	\$ 111	\$ 104	\$ 112	\$ 120
Maintenance Supplies and Services	\$ 2,004	\$ 2,277	\$ 2,547	\$ 2,101	\$ 2,171	\$ 2,878	\$ 2,736	\$ 2,726	\$ 2,992
Total	\$16,114	\$17,688	\$18,217	\$17,623	\$17,088	\$19,560	\$20,497	\$22,034	\$23,424

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Kentucky American argues in rebuttal testimony that they complied with the Commission’s prior ruling and developed a growth factor that is more reflective of the Company’s historical costs.¹⁰⁴ However, the Company did not comply with that ruling. In that Order, the Commission stated the following:

The Commission expects a utility such as Kentucky-American, with the shared resources of American Water, to develop and implement more robust forecasting methodologies for expenses than general CPI inflation factors with a review of specific factors impacting costs. For example, Kentucky-American applied an inflation factor to its fuel and power costs through the end of the test period,

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Defever Testimony, pages 26 – 27.

¹⁰³ *Id.*, page 26; Kentucky-American’s response to the Attorney General’s First Request, Item 103.

¹⁰⁴ Prendergast Rebuttal, page 13.

although its largest power provider, Kentucky Utilities Company, has a commitment for a base-rate “stay-out” for any base rate increases to not take effect until after July 1, 2025, beyond the end of the test period.¹⁰⁵

The Company simply used a 5-year historical average to determine the inflation factor. This is a high-level approach that is not a “more robust forecasting” methodology as discussed in the Order and does not reflect any specific factors similar to the example provided in the Order. The Commission disallowed the Company’s proposed inflation adjustment for similar expense categories in the 2023 rate case,¹⁰⁶ and should likewise disallow the growth factor in the pending case.

Kentucky American has not met its burden of proof that inflation factors are needed for the aforementioned cost categories at all, let alone that the inflation factor should be 5.16%. Thus, the Attorney General requests the Commission deny the Company’s proposed growth factor on the aforementioned cost categories. The Attorney General recommends reducing the forecasted test period expense by \$698,109, which reduces the forecasted test period revenue requirement by \$702,479 after the gross up for uncollectibles, regulatory assessment fees, and taxes.¹⁰⁷

i. Kentucky American’s healthcare expense should be reduced to a more reasonable level.

Kentucky American is requesting to include costs for healthcare expense in the forecasted test period in the pending case. However, these costs are in excess of the U.S. Bureau of Labor Statistics’ (“BLS”) annual averages for single and family coverage. According to the BLS, as of March 2025, the average employer share of premiums in private industry for single coverage is

¹⁰⁵ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, pages 17 – 19.

¹⁰⁶ *Id.*

¹⁰⁷ Defever Testimony, page 27.

80%,¹⁰⁸ while the share of premiums for family coverage is 69%.¹⁰⁹ Yet, Kentucky American contributes 84% of the premiums for the union/nonunion employees for both single and family coverage. In prior cases, the Commission has limited the recoverable portion of the company-paid health insurance premiums to the most current BLS annual averages for single and family coverage in order to rein in benefit expenses.¹¹⁰ Even in light of the recent Franklin Circuit Opinion and Order in Civil Action 24-CI-00725, the Commission is still, “free to consider such surveys as a factor in setting rates...”¹¹¹ Kentucky American is contributing 15% more to health insurance premiums for family coverage, and 4% more in premiums for single coverage than the average private employer. This is excessive and should be reduced to a more reasonable level.

In the rebuttal testimony, Kentucky American argues that their study performed comparing the benefits against other utility companies is “more relevant” than the BLS survey.¹¹² But, generally these types of studies compare Kentucky utilities’ salaries and benefits, such as healthcare employee contribution rates, to utilities in states such as California and New York, where the cost of living is much higher. Instead, as the Commission has found in past cases, the Company should be conducting formal studies comparing the Company’s wage/salary and benefit information to the local wage/salary and benefit information for the geographic area in which the Company provides service, instead of limiting studies to comparisons with other utilities.¹¹³ In addition, the Company never explains why utility employees should receive better

¹⁰⁸ <https://www.bls.gov/news.release/ebs2.t03.htm>

¹⁰⁹ <https://www.bls.gov/news.release/ebs2.t04.htm>

¹¹⁰ See Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief* (Ky. PSC June 30, 2022), Final Order at 9.

¹¹¹ *Oldham County Water District v. Public Service Commission of Kentucky*, Civil Action No. 24-CI-00725 (Sept. 25, 2025).

¹¹² Mustich Rebuttal, page 8.

¹¹³ Case No. 2016-00174, *Electronic Application of Licking Valley Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC Mar. 1, 2017), Final Order, pages 7 – 8; Case No. 2016-00367, *Application of Nolin*

benefits than non-utility employees.

In order to rein in excessive benefits and costs, the Commission should make an adjustment to Kentucky American's proposed healthcare expense. According to the Company, in order to reduce the contribution to employee insurance premiums to the BLS annual average then a reduction of \$315,000 would be necessary.¹¹⁴ Thus, the Attorney General respectfully requests for the health insurance premium contribution amounts above the BLS 2025 annual averages to be removed for ratemaking purposes. This results in a reduction to the revenue requirement of \$316,972.¹¹⁵

j. Kentucky American's membership dues expense should be reduced based upon Commission precedent.

Kentucky American included membership dues expenses in the forecasted test year in the pending case.¹¹⁶ In discovery, the Attorney General requested the monetary amount of dues that were associated with lobbying, advocacy, attempts to influence public opinion, institutional, or image building advertising because these amounts should be disallowed from the revenue requirement; however, these specific amounts were not provided. The Company asserted in response to discovery that it did not forecast dues expense at the vendor level, but provided historical actual amounts from 2020 – May 2025.¹¹⁷ The Company's 2024 membership fees are reproduced in the following table.

Rural Electric Cooperative Corporation for a General Rate Increase (Ky. PSC Jun. 21, 2017), Final Order, pages 5 – 6.

¹¹⁴ Kentucky American's response to the Attorney General's Second Request, Item 50; Defever Testimony, pages 28 – 29.

¹¹⁵ Defever Testimony, pages 28 – 29.

¹¹⁶ *Id.*, page 29.

¹¹⁷ *Id.*

Organization	2024 Amount
American Water Works Association/AWWA Amortization	\$ 16,898
Commerce Lexington	\$ 5,862
Downtown Lexington Partnership	\$ 1,250
Georgetown-Scott City Chamber of Commerce	\$ 1,781
Kentucky Association for Economic Development	\$ 425
Kentucky Association of Mapping Professionals	\$ 50
Kentucky Chamber of Commerce	\$ 9,240
Kentucky League of Cities	\$ 1,500
Kentucky League of Cities Cornerstone Partnership	\$ 1,500
Kentucky Rural Water Association	\$ 600
KY Environment Protect	\$ 13,946
Leadership LEX Alumni	\$ 35
Paris-Bourbon County Chamber of Commerce	\$ 650
Public Relations Society of American (PRSA)	\$ 352
Rockcastle Co Chamber of Comm	\$ 100
Winchester Clark County Chamber of Commerce	\$ 500
Woodford County Chamber of Commerce	\$ 520
Total	\$ 55,209

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It is important to note, that the monetary amounts contributed, and the number of organizations contributed to, by Kentucky-American each year vary greatly. For example, in 2020 the Company spent a total of \$121,291 on dues, \$125,330 in 2021, \$124,851 in 2022, \$88,191 in 2023, \$55,209 in 2024, and \$33,341 through May 2025 year-to-date.¹¹⁹ Of the seventeen organizations listed in the above table for 2024, fourteen appear to engage in lobbying and image building.¹²⁰ According to the Company, Kentucky Association of Mapping Professionals, KY Environment Protect, and Leadership LEX Alumni do not engage in advocacy/image building activities.¹²¹

Costs associated with lobbying, advocacy, attempts to influence public opinion, institutional, or image building advertising should be disallowed from rates because ratepayers receive very little benefit, if any at all, from such costs.¹²² The Commission has ruled in a multitude

¹¹⁸ *Id.*, page 30.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*, pages 30 – 31.

¹²² *Id.*, page 31.

of cases that a utility has the burden of proof to establish that costs it seeks to recover in rates for dues paid to various associations do not include prohibited costs for lobbying and political activity, including costs for legislative lobbying, regulatory advocacy, and public relations.¹²³ Kentucky American argues in rebuttal testimony that they “revisited” the 2024 dues, and determined that it had incorrectly included licensing fees associated with the Kentucky Environmental Protection Agency (Ky Environment Protect) in the amount of \$13,946. However, the Attorney General did not include the \$13,946 in his proposed adjustment (i.e., the \$13,946 remains in the revenue requirement). Kentucky American further argues in rebuttal testimony that ratepayers should be required to pay for the membership dues to organizations that lobby because the Company’s, “participation is not for the support of lobbying provided by these organizations.”¹²⁴ Kentucky American is entirely missing the point. Whether or not the Company is paying these organizations to lobby is inconsequential because the membership dues are still going toward lobbying, image building, and advertising, and these types of costs do not ultimately benefit the ratepayers.

Consequently, the Attorney General recommends removing the monetary amount that the Company spent on dues in 2024, as the most known and measurable, for the fourteen organizations

¹²³ Case No. 2024-00276, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates; Approval of Tariff Revisions; and Other General Relief* (Ky. PSC Aug. 11, 2025), Final Order, pages 26 – 27; Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (May 19, 2022), Final Order, pages 23 – 25; Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Jan. 3, 2022), Final Order, pages 8 – 9; Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC June 30, 2021), Final Order, pages 27 – 31; Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC June 30, 2021), Final Order, pages 25 - 28; Case No. 2021-00183, *Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Depreciation Study; Approval of Tariff Revisions; Issuance of a Certificate of Public Convenience and Necessity; and Other Relief* (Ky. PSC Dec. 28, 2021), Final Order, pages 9 – 10.

¹²⁴ Rebuttal Testimony of Michi Chao (“Chao Rebuttal”), pages 5 – 6.

that include costs for lobbying and image building.¹²⁵ If this recommendation is accepted then it would reduce the forecasted test period expense by \$41,178, which reduces the forecasted test period revenue requirement by \$41,436 after the gross up for uncollectibles, regulatory assessment fees, and taxes.¹²⁶

k. Flow-Through Adjustments

Due to the multitude of proposed adjustments that the Attorney General's expert witnesses proposed to the Company's revenue requirement in the pending case, there are necessary flow-through adjustments that need to be made to the payroll tax expense, benefits expense, income tax, and interest synchronization.¹²⁷ First, the proposed adjustment reducing payroll and incentive compensation has the effect of lowering payroll tax.¹²⁸ This proposed flow-through adjustment reduces payroll tax by \$179,556 in the forecasted test period, which would reduce the revenue requirement by \$180,680 after the gross up for uncollectibles, regulatory assessment fees, and taxes.¹²⁹ Second, the proposed adjustment to reduce payroll also has the effect of lowering the benefits expense.¹³⁰ This flow-through adjustment reduces benefits expense by \$127,819 in the forecasted test period, which would reduce the revenue requirement by \$128,619 after the gross-up for uncollectibles, regulatory assessment fees, and taxes.¹³¹ Third, the proposed adjustment to O&M expense effectively increases operating increase.¹³² As a result, the income tax is therefore increased.¹³³ The proposed adjustments increase federal and state income taxes by \$1.236 million

¹²⁵ Defever Testimony, page 32.

¹²⁶ *Id.*

¹²⁷ *Id.*, pages 32 – 34.

¹²⁸ *Id.*, page 33.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*, pages 33 – 34.

¹³³ *Id.*

in the forecasted test period.¹³⁴ Finally, the proposed adjustment decreasing rate base has the effect of decreasing interest expense, which then increases income tax expense.¹³⁵ This proposed adjustment increases income tax expense by \$61,539 in the forecasted test period, which would increase the revenue requirement by \$82,510 after the gross-up for uncollectibles, regulatory assessment fees, and taxes.¹³⁶

II. PROPOSED RATE BASE ADJUSTMENTS

- a. The Commission should disallow any Advanced Metering Technology (“AMI”) expense from the forecasted test period unless the pending Certificate of Public Convenience and Necessity (“CPCN”) is granted.**

Kentucky American proposes capital expenditures for meter replacements of \$11,192,071 in the base period and \$10,538,425 for the forecasted test period.¹³⁷ However, it is not clear from the evidentiary record if any AMI capital expenditures are included in the forecasted test period meter replacement expense.¹³⁸ The Company has a pending CPCN in Case No. 2024-00240 requesting to implement AMI; however, unless and until the Commission grants the Company’s CPCN, no AMI expense should be included in the forecasted test period.¹³⁹ Thus, the Attorney General requests for any AMI expense to be disallowed from customer rates, unless and until the Commission approves the Company’s pending CPCN request.

- b. The Commission should deny Kentucky American’s request to roll-in the existing QIP amounts into base rates, and disallow the QIP eligible projects from the forecasted test period.**

Kentucky American is requesting to roll-in the existing QIP rate base and corresponding O&M revenue and expense components into the revenue requirement in the pending case, and

¹³⁴ *Id.*

¹³⁵ *Id.*, page 34.

¹³⁶ *Id.*

¹³⁷ *Id.*, pages 34 – 35; Kentucky American’s response to the Attorney General’s Second Request, Item 73.

¹³⁸ Defever Testimony, pages 34 – 35.

¹³⁹ *Id.*, page 35.

reset the QIP charge to zero.¹⁴⁰ Additionally, the Company is requesting to include all QIP eligible projects in the forecasted test period revenue requirement, instead of flowing these eligible projects through the QIP rider.¹⁴¹ The Commission should deny both of the Company's QIP related requests.

First, in the 2023 rate case, the Commission denied Kentucky American's request to roll-in the QIP rate base and corresponding O&M revenue and expense components into the revenue requirement.¹⁴² The Commission stated in a prior Order that depicting a pipeline replacement program charge on, "a separate line item on customer bills allows for transparency."¹⁴³ The Attorney General agrees with this sentiment. Although, the Attorney General has previously opposed the implementation, continuation, and the expansion of the QIP, since it is apparent that Kentucky American will continue to utilize the QIP moving forward, it is of the utmost importance for the Commission to continue instituting this one customer safeguard currently in place. By requiring the QIP charge to be on a separate line item on the customers' bills, it not only allows for greater transparency to the customers, but it also acts as an incentive for the Company to control QIP costs in order to maintain a reasonable charge. Kentucky American even admits as much in the rebuttal testimony by stating that, "if the QIP charge is not reset, it would continue to represent a significant percentage of a customer's bill."¹⁴⁴ This argument posed by Kentucky American as a reason for the Commission to allow the QIP amounts to be rolled in to base rates is nonsensical because the customers will pay the QIP amounts whether rolled into

¹⁴⁰ *Id.*; DeGrazia Testimony, page 22.

¹⁴¹ Kentucky American's response to the Attorney General's First Request, Item 69.

¹⁴² Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, page 113.

¹⁴³ Case No. 2021-00183, *Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Depreciation Study; Approval of Tariff Revisions; Issuance of a Certificate of Public Convenience and Necessity; and Other Relief* (Ky. PSC Dec. 28, 2021), Final Order, page 40.

¹⁴⁴ DeGrazia Rebuttal, page 8.

base rates or kept as a separate line item on the bill. If the Commission were to allow Kentucky American to revert to rolling the QIP amounts into base rates and resetting the QIP charge to zero, then not only will transparency to the customers disappear, but the incentive to the Company to control QIP costs will be lost as well.

Second, in the same vein as the first argument, even though the Attorney General has historically opposed the QIP, since it is apparent that Kentucky American is planning to utilize the QIP in the future, it provides less transparency to the customers as well as confusion to attempt to embed QIP eligible projects in the forecasted test period revenue requirement in the pending case. Thus, based upon the foregoing, the Attorney General recommends the Commission follow precedent and deny the Company's request to roll-in existing QIP amounts into the revenue requirement and reset the QIP charge to zero. The Attorney General further recommends denying the inclusion of QIP eligible projects in the pending revenue requirement, and instead require these projects to flow through the QIP rider. The Attorney General is unable to quantify a recommended monetary adjustment for these proposals because they did not exist in the record at the time of his expert witness' testimony filing.

c. Kentucky American's cash working capital calculation is excessive and should be reduced in order to achieve fair, just, and reasonable rates.

In the application, Kentucky American includes \$2,788,000 in cash working capital for the forecasted test year based upon a lead/lag study.¹⁴⁵ In rebuttal testimony, Kentucky American decreased its cash working capital request to \$2,772,000.¹⁴⁶ The most problematic and glaring issue with the Company's lead/lag study is that it does not comply with long-standing Commission precedent to exclude all noncash items and balance sheet adjustments.¹⁴⁷ In the final Order in Case

¹⁴⁵ Direct Testimony of Harold Walker, III ("Walker Testimony"), page 14.

¹⁴⁶ Rebuttal Testimony of Harold Walker, III ("Walker Rebuttal"), pages 1 – 2.

¹⁴⁷ Defever Testimony, pages 39 – 40.

No. 2021-00183, the Commission stated that it, “places Columbia Kentucky and *all other utilities* on notice that in any future rate cases, a lead/lag study is to be performed and shall exclude noncash items and balance sheet adjustment.”¹⁴⁸ The Commission has continued to rule in a multitude of cases that noncash expenses are not appropriate to include in the cash working capital determination, including in the Company’s prior rate case.¹⁴⁹ In Case No. 2023-00191, the Commission disallowed the inclusion of non-cash items in the lead/lag study, and stated that it, “finds no reason to depart from recent precedent to remove non-cash items from cash working capital.”¹⁵⁰

Notably, Kentucky American’s witness admitted at the evidentiary hearing that he was aware of the Commission’s precedent, including Kentucky American’s 2023 rate case, to exclude noncash items from lead/lag studies.¹⁵¹ Nevertheless, the lead/lag study that the Company submitted in the pending case included noncash items in violation with Commission precedent. Interestingly, the Company’s witness has filed lead/lag studies in Missouri on behalf of Missouri-American Water, an affiliate of Kentucky American, which excluded noncash items.¹⁵²

The second issue with the Company’s lead/lag study is that it allows for the Kentucky

¹⁴⁸ Case No. 2021-00183, *Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Depreciation Study; Approval of Tariff Revisions; Issuance of a Certificate of Public Convenience and Necessity; and Other Relief* (Ky. PSC Dec. 28, 2021), Final Order, page 14. (emphasis added).

¹⁴⁹ Case No. 2024-00276, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates; Approval of Tariff Revisions; and Other General Relief* (Ky. PSC Aug. 11, 2025), Final Order, page 19; Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, page 9; Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (May 19, 2022), Final Order, page 9.

¹⁵⁰ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, page 9. Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (May 19, 2022), Final Order, page 20.

¹⁵¹ Walker Rebuttal, page 15; VTE 1:03:00 – 1:03:37.

¹⁵² See <https://www.efis.psc.mo.gov/Document/Display/330668>.

American's affiliated Service Company charges to be treated as a prepayment.¹⁵³ In the lead/lag study, the Company reflects a negative lag for Service Company charges as a negative 4.2 days.¹⁵⁴ In other words, this lag would assume that Kentucky American must pay its own Service Company 4.2 days before services are rendered.¹⁵⁵ In rebuttal testimony, Kentucky American states that the Company does not prepay Service Company invoices before the service is rendered.¹⁵⁶ To support this assertion, Kentucky American states that services provided in January are paid for in the middle of January, and services provided in February are paid for in the middle of February, and so forth.¹⁵⁷ Yet, the example given is completely contrary to the assertion that there is no prepayment. If Kentucky American pays the Service Company for services provided for the month by the middle of each month, then it is absolutely prepaying for the services provided in the last approximately two weeks of each month.

Ratepayers should not be responsible for the costs related to Kentucky American paying the Service Company for expenses earlier than necessary.¹⁵⁸ The Service Company charges should be billed to subsidiaries in the same manner as other outside providers – after the services have been provided.¹⁵⁹ The Commission agreed with the Attorney General on this exact issue in Case No. 2023-00191, and found that the Company, “has not provided any reasoning for service company expenses to be collected in revenues from customers and paid before the actual service is performed. The Commission finds that the Attorney General/LFUCG’s adjustment to cash working capital included in rate base is reasonable and should be accepted.”¹⁶⁰

¹⁵³ Defever Testimony, page 40.

¹⁵⁴ *Id.*; Kentucky-American’s response to the Attorney General’s First Request, No. 63.

¹⁵⁵ Defever Testimony, page 40.

¹⁵⁶ Walker Rebuttal, page 3.

¹⁵⁷ *Id.*

¹⁵⁸ Defever Testimony, page 40.

¹⁵⁹ *Id.*, page 41.

¹⁶⁰ *Id.*; Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure*,

For these reasons, the Attorney General respectfully requests that the Commission follow its precedent and remove all noncash items from the lead/lag study, as well as adjust the expense lead days for the Service Company charges to match the contracted service expense lead days. The effect of this recommendation results in a negative \$8.223 million cash working capital, which is a reduction of \$11.011 million to the Company's request of \$2.788 million.¹⁶¹ This recommendation results in a reduction to the revenue requirement of \$1.063 million after the gross up for uncollectibles, regulatory assortment fees, and taxes.¹⁶²

III. COST OF CAPITAL ISSUES

a. Return on Equity for Rate Base

Based upon the direct testimony of Kentucky American's witness Ms. Ann E. Bulkley ("Ms. Bulkley"), the Company proposes an inflated and unreasonable 10.75% return on equity,¹⁶³ while the Attorney General's witness Mr. Baudino recommends a reasonable 9.50% allowed return on equity.¹⁶⁴ Mr. Baudino's recommended return on equity of 9.50% is based on the results of his discounted cash flow ("DCF") and capital asset pricing model ("CAPM") analyses as applied to a combination proxy group consisting of eleven water and natural gas companies that was used by Ms. Bulkley, as well as a water proxy group consisting of six investor-owned water utilities.¹⁶⁵ It is important to note that Mr. Baudino provided analyses based upon a water proxy group, in addition to the combination proxy group utilized by Ms. Bulkley, due to the Commission's

Approval of Regulatory and Accounting Treatments, and Tariff Revisions, (Ky. PSC May 3, 2024), Final Order, page 9.

¹⁶¹ Defever Testimony, page 42.

¹⁶² *Id.*

¹⁶³ Direct Testimony of Ann E. Bulkley ("Bulkley Testimony"), pages 5 and 52; Direct Testimony of Richard A. Baudino ("Baudino Testimony"), page 3.

¹⁶⁴ Baudino Testimony, pages 3 and 34.

¹⁶⁵ *Id.*, page 3.

concerns in Kentucky American's prior rate case.¹⁶⁶ In the prior rate case Final Order, the Commission asserted that by including natural gas and electric utilities in the proxy group it tended to inflate the resulting return on equity analyses over the results of a water only proxy group.¹⁶⁷ The Commission further asserted that the natural gas and electric capital structure equity ratios were drastically higher than water utilities, and found that the Company should provide sufficient justification for continuing to include gas and electric utilities in its proxy group in the next base rate case.¹⁶⁸

Mr. Baudino's DCF analyses are based on the standard constant growth form of the model that employs growth rate forecasts from the following sources: Value Line Investment Survey, S&P Capital IQ Pro, and Zacks.¹⁶⁹ Mr. Baudino also performed CAPM analyses using both historical and forward-looking data, as well as sources that provide additional recommendations for the market risk premium portion of the CAPM. Mr. Baudino's results from the DCF and CAPM support the reasonableness of his 9.50% return on equity recommendation in the pending case.¹⁷⁰

Mr. Baudino utilized the following combination proxy group for purposes of his return on equity analyses: Atmos Energy Corporation; NiSource, Inc.; Northwest Natural Holding Company; ONE Gas, Inc.; Southwest Gas.; Spire; American States Water Company; California

¹⁶⁶ *Id.*, page 16; Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, pages 39 – 40.

¹⁶⁷ Baudino Testimony, page 16; Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, pages 39 – 40.

¹⁶⁸ Baudino Testimony, page 16; Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, pages 39 – 40.

¹⁶⁹ Baudino Testimony, page 13.

¹⁷⁰ *Id.*

Water Service Group; Middlesex Water Company; H2O America (previously known as SJW Group); and Essential Utilities, Inc.¹⁷¹ This is the same proxy group of utilities that Kentucky American's witness Ms. Bulkley used for her analyses.¹⁷² However, as previously discussed, in order to address the Commission's concerns from Kentucky American's prior rate case, Mr. Baudino also utilized the following water proxy group for purposes of his return on equity analyses: American States Water Company; California Water Service Group; Middlesex Water Company; H2O American; Essential Utilities, Inc.; and, American Water Works.¹⁷³

Mr. Baudino used the constant growth form of the DCF model using the following general formula:

$$k = D_1/P_0 + g$$

Where: D_1 = the next period dividend
 P_0 = current stock price
 g = expected growth rate
 k = investor-required return¹⁷⁴

Mr. Baudino relied on a six-month average of stock prices and the current dividend in order to calculate the dividend yield for the companies in his proxy group.¹⁷⁵ Regarding the growth component, Mr. Baudino included three earnings growth estimates from Value Line, S&P Capital IQ, and Zacks.¹⁷⁶ Mr. Baudino also used a dividend growth forecast from Value Line.¹⁷⁷ These are all trusted sources of information for investors.

¹⁷¹ *Id.*, Exhibit RAB-2.

¹⁷² Bulkley Testimony, page 23.

¹⁷³ Baudino Testimony, Exhibit RAB-4.

¹⁷⁴ *Id.*, page 14.

¹⁷⁵ *Id.*, page 17.

¹⁷⁶ *Id.*, pages 18 – 20.

¹⁷⁷ *Id.*, page 19.

It is crucial to highlight, that Mr. Baudino has concerns with respect to the high average earnings growth rates for the companies in both proxy groups, as they are likely unsustainable in the long run.¹⁷⁸ In this case, the average of analysts' earnings growth rates for the combination proxy group range from 6.91% - 7.09%.¹⁷⁹ These growth rates are significantly higher than the long-term growth rate of the overall economy as measured by growth in the GDP.¹⁸⁰ For a mature, steady-state industry such as water utilities, it is highly unlikely that earnings growth significantly above GDP growth can be maintained indefinitely as the constant growth DCF model assumes.¹⁸¹ In other words, water utilities, as well as gas distribution utilities, cannot outgrow the GDP over the long run.¹⁸² Using these consensus forecasts alone would overstate the DCF return on equity in this case.¹⁸³ Thus, it is very important to include forecasted dividend growth as an additional source for expected growth.¹⁸⁴ Value Line's average dividend growth for the Combination Proxy Group is 4.73%.¹⁸⁵

As support for this, in *Fundamentals of Financial Management*, Brigham and Houston note the following:

Second, the constant growth model as expressed in Equation 9.2 is not appropriate unless a company's growth rate is expected to remain constant in the future. This condition almost never holds for new start-up firms, but it does exist for many mature companies. Indeed, mature firms such as Keller, Allied, and GE are generally expected to grow at about the same rate as nominal gross domestic product (i.e., real gross domestic product [GDP] plus inflation).¹⁸⁶

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*, page 34.

¹⁸⁰ *Id.*, pages 34 – 35.

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ Eugene F. Brigham and Joel F. Houston, *Fundamentals of Financial Management*, 333-334, Eleventh Edition (2022, 2020 Cengage Learning, Inc.).

Pratt and Grabowski also cautioned as follows:

It is theoretically impossible for the sustainable perpetual growth rate for a company to significantly exceed the growth rate in the economy. Any rate over a 6% to 7% perpetual growth rate should be questioned carefully.¹⁸⁷

Regarding forecasts of GDP, Federal Reserve projections of June 18, 2025, called for longer-run real GDP growth of 1.8% and PCE inflation of 2.0%. This translates into forecasted nominal GDP growth of 3.80% per year.¹⁸⁸ The Congressional Budget Office also projects growth in real GDP through 2035 of 1.80% and CPI inflation of 2.0%.¹⁸⁹ If we assume forecasted long-run nominal GDP growth of around 4.0%, then forecasted constant earnings growth rates between 6% - 7% for the water and gas utility industries simply cannot be sustained.¹⁹⁰ This underscores the importance of including forecasted dividend growth in the DCF ROE analyses.¹⁹¹

Mr. Baudino's DCF analyses as applied to the combination proxy group resulted in the average growth rate range of 7.98% - 10.38%, with an average of 9.73%.¹⁹² The DCF analyses based upon the median growth rates for the combination proxy group resulted in a range of 7.75% - 10.29%, with the average of 9.23%.¹⁹³ Mr. Baudino's DCF analysis as applied to the water proxy group resulted in the average growth rate range of 8.97% to 9.56%, with an average of 9.26%.¹⁹⁴ The DCF analysis based upon the median growth rates for the water proxy group resulted in a range of 8.80% to 9.31%, with the average of 8.87%.¹⁹⁵

Mr. Baudino considered three approaches to estimating the CAPM return on equity that

¹⁸⁷ Shannon Pratt and Roger Grabowski, Cost of Capital 461 (Wiley, 5th ed.).

¹⁸⁸ Baudino Testimony, pages 35 – 36.

¹⁸⁹ <https://www.cbo.gov/system/files/2025-03/61187-Long-Term-Outlook-2025.pdf>.

¹⁹⁰ Baudino Testimony, page 36.

¹⁹¹ *Id.*

¹⁹² *Id.*, page 20.

¹⁹³ *Id.*, page 21.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

are reasonably indicative of the information available to investors.¹⁹⁶ Mr. Baudino first considered a forward-looking market risk premiums (“MRP”) using Value Line data that is based on a DCF model applied to the stock market.¹⁹⁷ The resulting CAPM return on equity was 9.55%.¹⁹⁸ Second, Mr. Baudino considered three historical risk premiums resulting in a range of 9.03% to 10.59%.¹⁹⁹ Third, Mr. Baudino included four publicly available sources of the MRP from Kroll, KMPG Corporate Finance and Evaluations (“KMPG”), Dr. Aswath Damodaran (“Damodaran”), and the 2025 IESE Business School Survey (“IESE”).²⁰⁰ These MRPs resulted in a CAPM return on equity range of 8.23% - 9.18%.²⁰¹

However, in his direct testimony, Mr. Baudino noted several challenges in obtaining a reliable return on equity estimate from the CAPM.²⁰² First, Mr. Baudino discusses how there is substantial evidence that beta is not the primary factor for determining the risk of a security.²⁰³ Second, Mr. Baudino states that there is a considerable amount of judgment that must be employed in determining the market return and expected risk premium elements of the CAPM equation.²⁰⁴ The analyst’s application of judgment can significantly influence the results obtained from the CAPM.²⁰⁵ Mr. Baudino’s experience with the CAPM indicates that it is prudent to use a wide variety of data in estimating investor-required returns.²⁰⁶ Of course, the range of results may also be wide, indicating the challenge in obtaining a reliable estimate from the CAPM.²⁰⁷ Mr.

¹⁹⁶ *Id.*, pages 24 – 25.

¹⁹⁷ *Id.*, page 25.

¹⁹⁸ *Id.* page 32 and Exhibit RAB-6.

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*, pages 23 – 24.

²⁰³ *Id.*

²⁰⁴ *Id.*, page 24.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.*

Baudino's approach to estimating the CAPM ROE draws on several different trusted sources of investor information.²⁰⁸ His approach stands in stark contrast to Ms. Bulkley's CAPM approach that only used one source to estimate her recommended MRP in the CAPM analysis.²⁰⁹

Hence, pursuant to the DCF and CAPM analyses, Mr. Baudino recommends that the Commission adopt a return on equity range of 9.25% - 9.75% for the water operations of Kentucky American.²¹⁰ Based upon these results, and in consideration of current financial market conditions, Mr. Baudino more specifically recommends a return on equity for Kentucky American of 9.50%, which represents the midpoint of the range.²¹¹ The 9.50% recommended return on equity is reasonable for a relatively low-risk regulated water utility investment such as Kentucky American,²¹² even when considering uncertainty inherent in the market at this time.²¹³

As Mr. Baudino's testimony demonstrates, Ms. Bulkley's recommended return on equity of 10.75% significantly overstates the investor-required return for regulated water utilities,²¹⁴ and is inconsistent with current financial market evidence.²¹⁵ Ms. Bulkley concludes that a reasonable return on equity range is 10.25% - 11.25%.²¹⁶ Ms. Bulkley states that after taking into consideration the current and prospective capital market conditions, as well as the level of regulatory, business, and financial risk faced by Kentucky American's water operations relative to the proxy group, she recommends a return on equity of 10.75% from the aforementioned range.²¹⁷

Ms. Bulkley utilized the DCF, CAPM, and Empirical Capital Asset Pricing Model

²⁰⁸ *Id.*, pages 24 – 32.

²⁰⁹ *Id.*, page 43.

²¹⁰ *Id.*, pages 33 – 34 and Table 1 – Summary of Return on Equity Estimates.

²¹¹ *Id.*, page 34.

²¹² *Id.*, page 3.

²¹³ *See* Baudino Testimony, pages 3 – 13, wherein he thoroughly reviews the current economic conditions.

²¹⁴ *Id.*, pages 3 and 37 – 47.

²¹⁵ *Id.*, pages 3 – 13.

²¹⁶ *Id.*, page 39; Bulkley Testimony, page 5.

²¹⁷ Bulkley Testimony, page 60; *See* Ann E. Bulkley Rebuttal Testimony ("Bulkley Rebuttal"), page 3.

(“ECAPM”) to evaluate a rate of return for Kentucky American in the pending case.²¹⁸ In the first model, Ms. Bulkley’s DCF analyses yielded an average growth rate range of 10.63% to 11.17% for the combination proxy group.²¹⁹ Although Mr. Baudino did not have any major criticism for Ms. Bulkley’s DCF analyses, he noted that Ms. Bulkley should have considered Value Line’s dividend growth forecast as well as for earnings growth.²²⁰ Mr. Baudino also notes that his DCF results were much lower than Ms. Bulkley’s results because the earnings growth rate forecasts that Ms. Bulkley utilized are likely unsustainable and will overstate the required return on equity for the combination proxy group if they are relied upon as the sole source of expected growth.²²¹ The source of the overstatement comes primarily from the gas distribution utilities included in the combination proxy group, which is why it is necessary to evaluate a water proxy group as well.²²² Mr. Baudino’s DCF analysis for the water proxy group revealed lower analysts’ expected earnings growth forecasts for investor-owned water utilities compared to gas distribution utilities.²²³ Thus, failing to take these factors into account and omitting forecasted dividend growth contributed to a significant overstatement of the DCF results in Ms. Bulkley’s analyses.²²⁴

In Ms. Bulkley’s second model, the CAPM analyses produced an excessive return on equity range of 10.52% - 11.57%.²²⁵ Ms. Bulkley only used one source to estimate her recommended MRP, which was based on a DCF analysis applied to the companies in the S&P 500.²²⁶ The total return on the market of 12.58% was based on a dividend yield of 1.36% and a

²¹⁸ Baudino Testimony, page 39.

²¹⁹ *Id.*, page 40.

²²⁰ *Id.*, page 42.

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*, pages 42 – 43.

²²⁴ *Id.*, page 43.

²²⁵ Bulkley Testimony, page 35.

²²⁶ Baudino Testimony, page 43.

long-term earnings growth rate of 11.15%.²²⁷ This led to an MRP range of 7.97% to 8.28%, which is overstated and leads to an overestimation of the CAPM return on equity.²²⁸

The primary problem with Ms. Bulkley's CAPM analysis is her sole reliance on a forward-looking market return for the S&P 500.²²⁹ Ms. Bulkley's projected market return of 12.58% is overstated due to reliance on an average Value Line long-term projected growth rate of 11.15%, which is unsustainable in the long run.²³⁰ Ms. Bulkley's earnings growth forecasts are even more unsustainable when considering both the historical and forecasted gross domestic product ("GDP") growth for the United States, which was 6.1% from 1929 – 2024.²³¹ This historical experience stands in stark contrast to the Value Line average forecasted growth rate of 11.15%.²³² Importantly, the 6.1% GDP growth rate matched the historical compound growth rate for capital appreciation for the S&P 500.²³³

Mr. Baudino further cautions against using growth rates in the constant growth DCF model that exceed long-run growth in the economy.²³⁴ Pratt and Grabowski noted the following with respect to growth rates that significantly exceed growth in GDP:

The growth rate assumed in calculating the terminal value is a compound growth rate *in perpetuity*, which is a very long time. At a growth rate of 20% compounded annually, the company's revenues would soon exceed the gross domestic product (GDP) of the United States and eventually that of the world. Long-term growth rates exceeding the real growth in GDP plus inflation are generally not sustainable. Most analysts use more conservative growth rates in calculating the terminal value. Generally, the long-term growth rate only applies to the existing enterprise or core business net cash

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.*, page 44.

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*, pages 44 – 45.

flows, consistent with the net cash flow projections in the discounted cash flow method²³⁵

The use of an unsustainably high growth rate directly translates to overstated expected MRPs, and an overstated CAPM return on equity result.²³⁶ Ms. Bulkley's overstated MRPs is yet another issue with her CAPM analysis.²³⁷ As Mr. Baudino asserts in his testimony, the historical MRPs range from 5.31% - 7.31%., with the estimates from four other sources ranging from 4.28% - 5.50%.²³⁸ Ms. Bulkley's lowest MRP of 7.97% significantly exceeds the high end of the historical MRP range of 7.31%, which is likely overstated itself.²³⁹

Ms. Bulkley also employed an ECAPM analysis as an alternative to the traditional CAPM, but this is not a reasonable method to use to estimate the investor required return on equity.²⁴⁰ The ECAPM is designed to account for the possibility that the CAPM understates the return on equity for companies with betas less than 1.0.²⁴¹ The argument that an adjustment factor is needed to correct the CAPM results for companies with betas less than 1.0 is further evidence of the lack of accuracy inherent in the CAPM itself and with betas in particular.²⁴² The ECAPM also suggests that published betas by sources such as Value Line are incorrect and that investors should not rely on them in formulating their estimates using the CAPM.²⁴³ Finally, although Ms. Bulkley cited the source of the ECAPM formula she used, no evidence was provided that investors favor this version over the standard CAPM.²⁴⁴ As such, Ms. Bulkley's ECAPM analysis and findings should

²³⁵ *Id.*, See Shannon Pratt and Roger Grabowski, Cost of Capital 1195 (Wiley, 5th ed.).

²³⁶ Baudino Testimony, page 45.

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.*, pages 45 – 46.

²⁴⁰ *Id.*, page 46.

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

be rejected.

Ms. Bulkley also presents alleged risk factors and other considerations that she believes should be considered when setting the allowed return on equity for Kentucky American, which includes the following: flotation costs, capital expenditure program, and the regulatory environment.²⁴⁵ First, the Commission has consistently disallowed flotation costs to be included in the allowed return on equity for regulated utilities, and Ms. Bulkley provides no new evidence that should cause the Commission to deviate from precedent.²⁴⁶ Second, the Commission should not increase Kentucky American's return on equity due to its capital expenditure program because only the Company can prudently manage its expenditures and the timing of rate cases to ensure that it collects the cost of providing service to the ratepayers, while maintaining a competitive return on its investments.²⁴⁷ Additionally, the use of a forecasted test year, and its currently approved QIP, both help mitigate the risk of the capital expenditure program.²⁴⁸ Third, the Commission should not increase Kentucky American's return on equity because of alleged regulatory risks.²⁴⁹ The Regulatory Research Associates ("RRA") currently assigns a regulatory climate rank of Average/2 to Kentucky.²⁵⁰ This rank is in the middle of the average ranking and provides no basis to conclude that Kentucky American is a higher risk water utility based on

²⁴⁵ *Id.*, page 47.

²⁴⁶ *Id.*, pages 47 – 48; Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, pages 38 – 39; Case No. 2022-00372, *Electronic Application of Duke Energy Kentucky, Inc. for (1) An Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and (4) All Other Required Approvals and Relief* (Ky. PSC Oct. 12, 2023), Final Order, page 41; Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (Ky. PSC May 19, 2022), Final Order, page 48.

²⁴⁷ Baudino Testimony, page 47.

²⁴⁸ *Id.*

²⁴⁹ *Id.*, page 48 – 49.

²⁵⁰ *Id.*

regulatory climate as compared to the proxy groups.²⁵¹ In fact, Ms. Bulkley did not include a specific adjustment for regulatory risk as the 10.75% return on equity recommendation is the midpoint of her return on equity range.²⁵²

It should be emphasized that the Commission addressed all of these arguments in Kentucky American's 2023 rate case and found them to be entirely unpersuasive.²⁵³ Finally, the Commission asserted in the prior rate case Final Order that it continues to reject the use of flotation cost adjustments, financial risk adjustments, and explicit size adjustments in the ROE analyses.²⁵⁴

Based upon the foregoing, Commission approval of Kentucky American's overly inflated return on equity proposal of 10.75% would cause rates to increase to an unreasonable level and harm ratepayers. Thus, the Attorney General requests the Commission to adopt Mr. Baudino's reasonable recommendation of a 9.50% return on equity for Kentucky American.²⁵⁵ If the Commission accepts Mr. Baudino's proposed return on equity of 9.50% then it will reduce Kentucky American's requested rate increase by approximately \$5,239,999.²⁵⁶

b. Return on Equity for Kentucky American's QIP

Mr. Baudino recommends that the Commission order a 10-basis point reduction in its allowed return on equity for investments included in Kentucky American's QIP.²⁵⁷ If the Commission adopts this recommendation, then the allowed return on equity for the investments in

²⁵¹ *Id.*

²⁵² *Id.*, page 49.

²⁵³ *Id.*; Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, (Ky. PSC May 3, 2024), Final Order, page 38.

²⁵⁴ *Id.*, pages 38 – 39.

²⁵⁵ Baudino Testimony, page 3.

²⁵⁶ Defever Testimony, page 5.

²⁵⁷ Baudino Testimony, page 36.

the QIP would be 9.40%.²⁵⁸ This treatment is consistent with the Commission’s long-standing practice of awarding lower return on equities for riders with true-up mechanisms.²⁵⁹ Most recently, the Commission awarded a 10-basis point reduction for a capital rider in Case No. 2024-00354, and stated that, “[t]he Commission continues to view capital riders, such as the ESM, as providing lower risk to the utility due to the automatic cost recovery and true-up components”²⁶⁰ Likewise, in Case No. 2024-00276, the Commission asserted that the, “ROE for capital riders is adjusted downwards because ‘[w]ith a rider, since a return is guaranteed and the time line of recovery is known and ordinarily not meaningfully delayed, the required return is less than the ROE associated with a rate case as the risk involved is decreased and most lag associated with

²⁵⁸ *Id.*

²⁵⁹ See Case No. 2024-00354, *Electronic Application of Duke Energy Kentucky, Inc. for: 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Relief* (Ky. PSC Oct. 2, 2025), Final Order, page 51; Case No. 2024-00276, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates; Approval of Tariff Revisions; and Other General Relief* (Ky. PSC Aug. 11, 2025), Final Order, page 38; Case No. 2024-00346, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Gas Rates* (Ky. PSC July 1, 2025), Final Order, page 17; Case No. 2022-00372, *Electronic Application of Duke Energy Kentucky, Inc. for (1) An Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and (4) All Other Required Approvals and Relief* (Ky. PSC Oct. 12, 2023), Final Order, pages 41–42; Case No. 2020-00060, *Electronic Application of Kentucky Utilities Company for Approval of Its 2020 Compliance Plan for Recovery by Environmental Surcharge* (Ky. PSC Sept. 29, 2020), Final Order, page 20; Case No. 2020-00061, *Electronic Application of Louisville Gas and Electric Company for Approval of an Amended Environmental Compliance Plan and a Revised Environmental Surcharge* (Ky. PSC Sept. 29, 2020), Final Order, page 20; Case No. 2020-00174, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) Approval of a Certificate of Public Convenience and Necessity; and (5) All Other Required Approvals and Relief* (Ky. PSC Jan. 13, 2021), Final Order, page 67; Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC June 30, 2021), Final Order, pages 21–23; Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC June 30, 2021), Final Order, pages 23–25; Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (Ky. PSC May 19, 2022), Final Order, page 48; Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Jan. 3, 2022), Final Order, page 15; Case No. 2021-00190, *Electronic Application of Duke Energy Kentucky, Inc. for: 1) An Adjustment of the Natural Gas Rates; 2) Approval of New Tariffs, and 3) All Other Required Approvals, Waivers, and Relief* (Ky. PSC Dec. 28, 2021), Final Order, page 15.

²⁶⁰ Case No. 2024-00354, *Electronic Application of Duke Energy Kentucky, Inc. for: 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All Other Required Approvals and Relief* (Ky. PSC Oct. 2, 2025), Final Order, page 51.

recovery is eliminated.”²⁶¹ In another recent case, Case No. 2024-00328, the Commission stated the following:

Since 2020, the Commission has consistently established a lower ROE for riders with true-up mechanisms, finding that recovery through limited purpose riders is less risky than base rates. Additionally, Columbia Kentucky’s argument that more capital spending being recovered through the SMRP results in higher risk ignores the true-up provision of the SMRP. Recovery through the SMRP is practically guaranteed through the true-up mechanism, making the SMRP less risky than base rate recovery. . . . The Commission finds that the ROE for the SMRP should be 9.65 percent, a 10 basis point reduction from the ROE approved for base rates.²⁶²

In rebuttal testimony, Ms. Bulkley attempts to argue that because the Commission has not historically awarded a lower return on equity to the Company’s QIP, it should not do so in the pending case.²⁶³ Yet, the rebuttal testimony is completely void of any recent Commission precedent to support Ms. Bulkley’s position, because none exists, and lacks any rationale as to why Kentucky American should be the only investor-owned company that does not receive a 10-basis point lower ROE on its capital rider. As the Commission previously stated in its Order in Case No. 2023-00300, Kentucky American’s QIP, “applications are filed on an annual basis on or before April 2, have a 90-day review period that can be extended for good cause, are based on a forecasted test period of July 1 to June 30, and have an annual true-up filing of projected costs and actual costs.”²⁶⁴ The Commission has also allowed the Company to realign its filings with the calendar year.²⁶⁵ Thus, due to the true-up of projected and actual costs that Kentucky American

²⁶¹ Case No. 2024-00276, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates; Approval of Tariff Revisions; and Other General Relief* (Ky. PSC Aug. 11, 2025), Final Order, page 38.

²⁶² Case No. 2024-00328, *Electronic Application of Columbia Gas of Kentucky, Inc. For Its Annual Safety Modification and Replacement Program Filing*, (Ky. PSC July 24, 2025), Final Order, pages 5 – 6.

²⁶³ Bulkley Rebuttal, page 56.

²⁶⁴ Case No. 2023-00300, *Electronic Application of Kentucky-American Water Company for a Balancing Adjustment for its QIP Charge* (Ky. PSC May 3, 2024), Final Order, page 3.

²⁶⁵ Case No. 2023-00300, *Electronic Application of Kentucky-American Water Company for a Balancing Adjustment for its QIP Charge* (Ky. PSC August 12, 2024), Rehearing Order, page 5.

employs in the QIP, the investments included in the QIP are less risky and, consistent with the Commission's rulings on other utility riders with true-up mechanisms.²⁶⁶ Therefore, Kentucky American's QIP return on equity should be 10-basis points less than the awarded return on equity for its regulated rate base.

IV. OTHER ISSUES

a. Merger Transaction

In Case No. 2025-00171, American Water, Kentucky American, Nexus Regulated Utilities, LLC, and Water Service Corporation of Kentucky ("Water Service") filed a joint application requesting approval for Water Service to merge into Kentucky American.²⁶⁷ The Commission approved the requested merger on September 9, 2025.²⁶⁸ The Attorney General is concerned that any reduced costs or economies of scale resulting from the merger may not be passed onto ratepayers.²⁶⁹ As such, the Attorney General recommends that Kentucky American be required to track all merger-related savings to be reviewed in the next rate case.²⁷⁰

b. Products Containing PFAS

Kentucky American participated in litigation against several of the major manufacturers of perfluoralkyl and polyfluoroalkyl substances ("PFAS"). Kentucky American has proposed for the PFAS settlement revenue to be accounted for as a regulatory liability and returned to the customers as a line-item credit on the bills.²⁷¹ The Attorney General believes this is a reasonable approach and supports the Company's proposal to flow the PFAS settlement revenue to the customers

²⁶⁶ Baudino Testimony, page 38.

²⁶⁷ Case No. 2025-00171, *Electronic Application of American Water Works Company, Kentucky-American Water Company, Nexus Regulated Utilities, LLC, and Water Service Corporation of Kentucky for Approval of the Transfer of Control of Water Service Corporation of Kentucky* (Ky. PSC Sept. 9, 2025).

²⁶⁸ *Id.*

²⁶⁹ Defever Testimony, page 43.

²⁷⁰ *Id.*

²⁷¹ Kentucky-American's response to LFUCG's Second Request for Information ("LFUCG's Second Request"), Item 1.

through bill credits.

V. ADDITIONAL RECOMMENDATIONS OF THE ATTORNEY GENERAL

a. **Kentucky American's proposal to increase the residential monthly customer charge by 11%, and the volumetric rate by 41% is unreasonable.**

As mentioned above, Kentucky American proposes to increase its residential monthly customer charge from \$17.55 to \$19.45, which equates to an approximately 11% increase.²⁷² The Company is also requesting to increase the volumetric water rate from \$6.7291 to \$9.4567 per thousand gallons, or a 41% increase.²⁷³ First, an increase of this magnitude to the residential customer charge and volumetric charge will hinder residential customers' ability to control their monthly water bills and will pose a financial hardship on those customers already struggling to make ends meet. This is especially true for Kentucky American's customers who already live in poverty.²⁷⁴ The Commission has always relied upon the principle of gradualism in ratemaking, which mitigates the financial impact of rate increases on customers.²⁷⁵ Kentucky American's proposed 11% increase to the residential monthly customer charge and 41% increase to the residential volumetric rate violates this important ratemaking principle.

Second, Kentucky American similarly requests to increase the monthly customer charge for the commercial customers from \$17.55 to \$19.45.²⁷⁶ If the Commission approves the requested increase to both the residential and commercial monthly customer charge, then the residential

²⁷² Direct Testimony of Max McClellan ("McClellan Testimony"), page 17; Kentucky American's response to the Attorney General's First Request, Item 26(a).

²⁷³ McClellan Testimony, page 17; Kentucky American's response to the Attorney General's First Request, Item 26(d).

²⁷⁴ Kentucky American's response to the Attorney General's First Request, Item 8(f).

²⁷⁵ See Case No. 2014-00396, *In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (2) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief*, (Ky. PSC June 22, 2014) ("the Commission has long employed the principle of gradualism"); See also Case No. 2000-00080, *In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks* (Ky. PSC Sept. 27, 2000) ("the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.")

²⁷⁶ Kentucky American's response to the Attorney General's First Request, Item 26(b).

customers will pay the same monthly customer charge as the Company's commercial customers.²⁷⁷ However, under the Company's proposed rates the residential class will be paying a higher volumetric water rate per 1000 gallons than the commercial class - \$9.4567 versus \$8.1129, respectively.²⁷⁸ In the final Order of Case No. 2019-00053, the Commission stated that it does not support a rate design in which the small single-phase commercial class pays a monthly customer charge that is lower than that charged to the residential class.²⁷⁹ The Attorney General is concerned that the Company's proposed monthly customer charge for the residential class being the same as that proposed to be paid by the commercial class, coupled with the higher proposed volumetric water charge for the residential customers than the commercial customers, leads to an inequitable result.

Thus, the Attorney General respectfully requests the Commission to continue to rely upon the principle of gradualism when awarding any increase to the residential monthly customer charge and volumetric charge.

CONCLUSION

WHEREFORE, the Attorney General requests that the Commission deny Kentucky American's requested rate increase. If the Commission is inclined to grant a rate increase, then it should be limited to what Kentucky American has proven with known and measurable evidence that will result in fair, just, and reasonable rates for the Company's ratepayers.

²⁷⁷ Application, Filing Exhibit 7, Customer Notice.

²⁷⁸ *Id.*; Kentucky American's response to the Attorney General's First Request, Items 26(d) and (e).

²⁷⁹ Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019), Final Order, page 16.

Respectfully submitted,

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Certificate of Service and Filing

Pursuant to the Commission's Orders and in accord with all other applicable law, Counsel certifies that the foregoing electronic filing was transmitted to the Commission on October 27, 2025, and there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

This 27th day of October, 2025,



Assistant Attorney General