

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF KENTUCKY-AMERICAN)
WATER COMPANY TO REVISE THE KENTUCKY) CASE NO. 2009-00124
RIVER AUTHORITY WITHDRAWAL FEE)

ORDER

This proceeding involves a review of Kentucky-American Water Company's ("Kentucky-American") proposed revisions to its Kentucky River Withdrawal Fee. At issue is whether the proposed revision is reasonable and whether continued use of a separate rate to recover costs related to water withdrawal fees that Kentucky River Authority ("KRA") assesses is reasonable and appropriate. The Commission finds in the affirmative on both issues and approves the proposed revision.

On February 26, 2009, Kentucky-American filed with the Commission revised tariff sheets in which it proposed to adjust its Kentucky River Withdrawal Fee.¹ On March 30, 2009, the Commission established this proceeding to investigate the reasonableness of the proposed adjustment and authorized the proposed rate to become effective, subject to change, on April 1, 2009.²

¹ For a review of the history of Kentucky-American's use of a separate line item on customer bills to recover costs related to KRA withdrawal fees, see the Commission's Order of August 18, 2009. *See also* Case No. 2006-00154, *Tariff Filing of Kentucky-American Water Company to Revise Kentucky River Withdrawal Fee* (Ky. PSC Feb. 12, 2007).

² Kentucky-American proposed to make the proposed rate effective on March 31, 2009. By our Order of March 31, 2009, we suspended the proposed rate for one day.

Intervention was requested by and granted to the Attorney General (“AG”), the City of Lawrenceburg (“Lawrenceburg”), and Kentucky Municipal Utilities Association (“KMUA”). On August 18, 2009, we requested the parties to submit a written brief on three issues: (1) whether water withdrawal fees paid to the KRA should be recovered through general rates only; (2) whether KRA water withdrawal fees should be considered an extraordinary expense that must be billed as a separate line item on customer bills and through a methodology that ensures total recovery of such fees; and (3) whether the current methodology used for Kentucky-American’s Kentucky River Withdrawal Fee Rate discourages more efficient use of water. Kentucky-American, Lawrenceburg and KMUA have filed such briefs.

The AG, arguing that four appeals³ pending before the Kentucky Supreme Court will have a significant effect on the questions currently before the Commission, has moved that we hold this matter in abeyance pending the Court’s decision on those appeals. The Commission finds that those appeals do not directly address the reasonableness of the Kentucky River Withdrawal Fee or the issues raised in our Order of August 18, 2009. Rather, those appeals address the Commission’s jurisdiction over other types of rates. Consequently, we find no basis to hold this proceeding in abeyance and deny the AG’s motion.

As to the reasonableness of the use of a separate rate to recover the costs associated with KRA withdrawal fees, the Commission finds that this practice has been

³ *Pub. Serv. Comm’n v. Duke Energy Kentucky, Inc.*, 2008-SC-0483-D (Apr. 15, 2009) (granting discretionary review); *Union Light, Heat and Power Co. v. Kentucky*, 2009-SC-0489-D (Apr. 15, 2009) (granting discretionary review); *Kentucky Pub. Serv. Comm’n v. Kentucky*, 2009-SC-0134-DG (Aug. 20, 2009) (granting discretionary review); *Duke Energy Kentucky, Inc. v. Kentucky*, 2009-SC-0150-DG (Aug. 20, 2009) (granting discretionary review).

in effect since the inception of these fees in 1994 without objection from any interested party and ensures greater public appreciation and knowledge of the costs that Kentucky-American customers indirectly pay to ensure the adequacy of their local water sources. We find that the practice is reasonable in this instance, is not inconsistent with past Commission precedent to the extent that it informs ratepayers of unique utility expenditures to government entities,⁴ and warrants a rare exclusion from the general rule that all expenses should be recovered through base rates.

As to the methodology used to calculate the revised rate, it is consistent with that the Commission has previously authorized. Kentucky-American's assumptions regarding withdrawal and customer usage appear reasonable. Accordingly, the Commission finds that Kentucky-American's proposed rate revision is reasonable and should be approved.

IT IS THEREFORE ORDERED that:

1. The AG's motion for abeyance is denied.
2. Kentucky-American's proposed revision to its Kentucky River Withdrawal Fee is approved for service rendered on and after April 1, 2009.
3. Kentucky-American shall continue to comply with all provisions of the Commission's Order of February 12, 2007 in Case No. 2006-00154, to include an annual adjustment of its Kentucky River Withdrawal Fee to reflect over- and under-

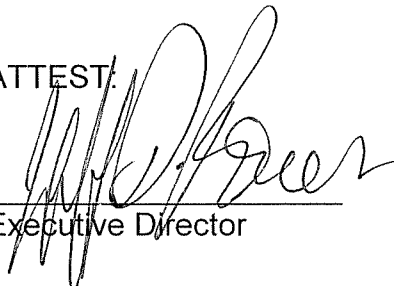
⁴ See, e.g., Case No. 7804, *General Adjustment of Rates of Kentucky Utilities Company* (Ky. PSC Oct. 1, 1980).

collections and the annual submission of a written report regarding the operation of the fee.

By the Commission

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KENTUCKY PUBLIC
SERVICE COMMISSION

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