

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-AMERICAN WATER COMPANY FOR AN ADJUSTMENT OF RATES)	CASE NO.
)	2018-00358
)	

ORDER

On January 4, 2019, the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 278.400, filed a motion requesting rehearing of the portion of the Commission's January 4, 2019 Order that denied the Attorney General's request to amend the procedural schedule to extend certain dates regarding the submission of and responses to data requests.¹

In his January 3, 2019 motion to amend the procedural schedule, the Attorney General requested to extend the dates for parties to submit requests for information to Kentucky-American Water Company (Kentucky-American) from January 10, 2019, to January 18, 2019, and the dates for Kentucky-American to file its responses from January 25, 2019, to February 4, 2019. The Attorney General asserted that he and his expert witness had an insufficient amount of time between the intervention deadline of December 28, 2018, and the January 10, 2019 deadline for submitting data requests, to diligently review the application, and conduct discovery in light of the number of pending rate cases before the Commission. The Commission denied this portion of the Attorney General's motion and explained that the proposed amended dates would not permit for sufficient

¹ The Attorney General does not request rehearing on the portion of the January 4, 2019 Order that granted his request to amend the procedural schedule to extend the date for filing Intervenor testimony.

time for the Commission to review Kentucky-American's responses and prepare the next set of data requests.

In the motion for rehearing, the Attorney General renewed his motion, with a modification of the proposal to extend the dates for parties to submit requests for information to Kentucky-American from January 10, 2019, to January 15, 2019, and for Kentucky-American to file its responses to the requests for information from January 25, 2019, to January 30, 2019. In support of the request, the Attorney General asserted that reconsideration was warranted by the Commission's January 3, 2019 Order scheduling a January 9, 2019 hearing on pending motions to intervene (Hearing Order). The Attorney General argued that moving the date to submit data requests from January 10, 2019, to January 15, 2019, would ensure that parties, if denied intervention, would not expend unnecessary funds on legal expenses. The Attorney General stated that he would accept any modification of the proposed dates if the Commission preferred alternative dates other than those suggested by the Attorney General.

KRS 278.400 provides that a party to a Commission proceeding may apply for rehearing of a Commission determination within 20 days after service of the order. Further, the standard of review for rehearing is whether the party requesting rehearing could, with reasonable diligence, have offered evidence upon which rehearing is requested prior to the Commission's determination.

Based upon a review of the motion for rehearing and being otherwise sufficiently advised, the Commission finds that the Attorney General's request for rehearing should be denied for failure to satisfy the requirements of KRS 278.400. As a basis for the request, the Attorney General raises the issue of the potential financial impact to movants requesting intervention if intervention is denied. In doing so, the Attorney General raises

an issue that is not germane to his request because the Attorney General was granted intervention on January 3, 2019, pursuant to his statutory authority to intervene on behalf of consumers in matters before the Commission.

Further, the Attorney General's argument that he had insufficient time to review Kentucky-American's application between the intervention deadline of December 28, 2018, and the January 10, 2019 submission of data requests fails to establish good cause to amend the procedural schedule. This argument implies that the Attorney General either failed to make a determination to intervene in this matter until December 28, 2018, or that the Attorney General or his expert failed to initiate a review of Kentucky-American's request for a rate increase until the Attorney General filed a request to intervene on December 28, 2018. Given that Kentucky-American filed its application on November 28, 2018, provided the Attorney General with notice on October 26, 2018 that it would file a rate increase within 30 to 60 days,² and that the Commission's December 5, 2018 procedural schedule established the January 10, 2019 deadline to submit data requests, the Attorney General has been, or should have been, timely aware of the pending application and the date by which data requests were due.

Therefore, the Commission will not propose alternate dates to submit or respond to data requests to accommodate what appears to be untimely action by the Attorney General. The Attorney General and Kentucky-American may file a joint motion for leave for the Attorney General to file data requests on a date certain after the January 10, 2019 deadline provided that Kentucky-American files responses to all parties' data requests on

² Kentucky-American's Notice of Election of Use of Electronic Filing Procedures (filed Oct. 26, 2018). Pursuant to 807 KAR 5:001, Section 16(2)(c), Kentucky-American provided the Attorney General with a copy of the Notice.

the established procedural deadline of January 25, 2019, and provided that the joint motion is timely filed prior to the close of business on January 10, 2019.

IT IS THEREFORE ORDERED that the Attorney General's motion for rehearing is denied.

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By the Commission

ENTERED
JAN 08 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director