

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-	)	
AMERICAN WATER COMPANY FOR A	)	CASE NO.
BALANCING ADJUSTMENT FOR ITS QIP	)	2023-00300
CHARGE	)	

ORDER

On May 21, 2024, Kentucky-American Water Company (Kentucky-American) filed a petition, pursuant to KRS 278.400, requesting a rehearing to (1) adjust the timing of Kentucky-American’s future Qualified Infrastructure Program (QIP) filings from the time set forth in the Commission’s May 3, 2024 Order; and (2) to adjust Kentucky-American’s QIP Rider Charge approved in this proceeding to capture the corrections to authorized revenues reflected in Kentucky-American’s Petition for Rehearing submitted in Case No. 2023-00191.<sup>1</sup> On June 10, 2024, the Commission granted Kentucky-American’s petition for a rehearing to adjust the timing of its future QIP filings, beginning with QIP 6, so that it can maximize the efficient construction of its QIP projects by eliminating the straddling of QIP years over pipeline construction season.<sup>2</sup> The Commission denied Kentucky-American’s petition for rehearing on all other issues raised.<sup>3</sup>

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<sup>1</sup> Kentucky-American’s Petition for Rehearing (Petition for Rehearing) (filed May 3, 2024) at 1.

<sup>2</sup> Order (Ky. PSC June 10, 2024) at 6.

<sup>3</sup> Order (Ky. PSC June 10, 2024) at 6.

## LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”<sup>4</sup> An order can only be unlawful if it violates a state or federal statute or constitutional provision.<sup>5</sup>

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

## BACKGROUND

In its May 21, 2024 petition, Kentucky-American stated that a shift to align a QIP year with a calendar year would allow it to do its QIP assessment and planning during the colder months when construction is limited, and then focus its resources on construction when it is occurring during the warmer months.<sup>6</sup> Kentucky-American stated that this would allow for better coordination with the Lexington-Fayette Urban County

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<sup>4</sup> *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

<sup>5</sup> *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

<sup>6</sup> Petition for Rehearing at 2.

Government’s (LFUCG) road repaving work and construction opportunities.<sup>7</sup> Kentucky American proposed the following new schedule<sup>8</sup>:

<b>Filing</b>	<b>Filing Date</b>	<b>QIP Period Start / Rates Effective</b>	<b>QIP Period End</b>	<b>Balancing Adjustment</b>
QIP 5*	5/31/2024	9/1/2024	12/31/2024	None*
QIP 6	8/31/2024	1/1/2025	12/31/2025	QIP 4
QIP 7	8/31/2025	1/1/2026	12/31/2026	QIP 5
QIP 8	8/31/2026	1/1/2027	12/31/2027	QIP 6

\*Filing to remove QIP 3 Balancing Adjustment and proposing no new QIP investments.

Kentucky-American noted that the reason the previous QIP years were from July 1 to June 30 were a result of the timing in Kentucky-American’s 2018 rate case.<sup>9</sup> Kentucky-American stated that with multiple years of QIP experience, it has learned that a move to a true calendar year would have budgeting, construction, and engineering advantages.<sup>10</sup>

Kentucky-American explained that the first step in its planning process is to use a pipeline prioritization model desktop analysis.<sup>11</sup> Then, the process moves into a field evaluation of the initial list of projects to evaluate site considerations in preparing preliminary estimates.<sup>12</sup> Kentucky-American stated that local hot asphalt plants are not open in colder months, and when the projects take place during colder months, temporary

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<sup>7</sup> Petition for Rehearing at 2.

<sup>8</sup> Petition for Rehearing at 3.

<sup>9</sup> Note that Kentucky-American quoted Case No. 2018-00350, but this appears to be a typo. Kentucky-American was referring to Case No. 2018-00358, *Electronic Application of Kentucky-American for an Adjustment of Rates*.

<sup>10</sup> Kentucky-American’s Response to Commission Staff’s Rehearing Request for Information (Staff’s Rehearing Request) (filed June 26, 2024), Item 1a-c.

<sup>11</sup> Kentucky-American’s Response to Staff’s Rehearing Request, Item 1a-c.

<sup>12</sup> Kentucky-American’s Response to Staff’s Rehearing Request, Item 1a-c.

paving, “cold patch asphalt” must be used, which can cost approximately \$150/ton as opposed to hot asphalt which cost \$90/ton.<sup>13</sup> Kentucky-American explained that a move to a calendar year for QIP would allow more projects to use hot asphalt exclusively because Kentucky-American would be able to use the colder months for project planning and design.<sup>14</sup> Kentucky-American argued that the cost differences between cold patch asphalt and hot asphalt would result in savings that would be passed on to Kentucky-American’s customers.<sup>15</sup>

Kentucky-American stated that it then schedules a utility coordination meeting inviting LFUCG’s Streets and Roads Division, LFUCG’s Water Quality Division, and considers and analyzes the feedback gathered during the meeting to establish the final list that is presented to the Commission for approval.<sup>16</sup> Kentucky-American also mentioned the paving cost sharing agreements it has with Columbia Gas Kentucky, Inc and the LFUCG, and stated that aligning construction to a calendar year allows for construction to start and be completed, with paving sharing opportunities to be realized early in LFUCG’s fiscal budget year.<sup>17</sup> Kentucky-American pointed to the challenges it has experienced in the past with not aligning with other stakeholder’s planning cycles.<sup>18</sup> Kentucky-American stated that its QIP period occurring at the end of LFUCG’s fiscal year, costs associated with maintaining temporary pavement patching over winter construction,

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<sup>13</sup> Kentucky-American’s Response to Staff’s Rehearing Request, Item 1a-c.

<sup>14</sup> Kentucky-American’s Response to Staff’s Rehearing Request, Item 1a-c.

<sup>15</sup> Kentucky-American’s Response to Staff’s Rehearing Request, Item 1a-c.

<sup>16</sup> Kentucky-American’s Response to Staff’s Rehearing Request, Item 1a-c.

<sup>17</sup> Kentucky-American’s Response to Staff’s Rehearing Request, Item 1a-c.

<sup>18</sup> Kentucky-American’s Response to Staff’s Rehearing Request, Item 1a-c.

receiving Commission approval for the rigid list of QIP projects, and subsequently starting bid activities in mid-summer has made it challenging to start construction and complete approved projects during the late spring/summer construction time period that would be most desirable to avoid traffic and pedestrian conflicts around schools.<sup>19</sup>

### DISCUSSION AND FINDINGS

Having reviewed the relevant record, the rehearing pleadings, and being otherwise sufficiently advised, the Commission finds that Kentucky-American's request to move the QIP period to a calendar year is granted. Kentucky-American has met its burden of proof to show that the move to a calendar year may provide cost-savings to customers and improve efficiencies in planning and execution of its QIP projects. The Commission anticipates seeing an improvement in the proposed QIP project completion percentage within the QIP year.

The Commission finds that Kentucky-American should now adhere to the following schedule. First, Kentucky-American should file its QIP application on August 31st of every year, beginning 2024, to become effective on January 1st of the next year. Kentucky-American should file its QIP true-up application no later than March 31st after the end of each 12-month QIP period to true-up the projected program costs and revenues, with the actuals for the same period. The QIP true-up to the rider should become effective on July 1st, 2025, for the March 2025 filing. If Kentucky-American does not request a QIP true up, Kentucky-American should file with the Commission in the post case correspondence of its next QIP filing stating it does not seek a QIP true up for the March 2025 filing.

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<sup>19</sup> Kentucky-American's Response to Staff's Rehearing Request, Item 1a-c.

IT IS THEREFORE ORDERED that:

1. Kentucky-American's request for a rehearing to adjust the timing of its future QIP filings, beginning with QIP 6, so that it can maximize the efficient construction of its QIP projects by eliminating the straddling of QIP years over pipeline construction season is granted.

2. Kentucky-American shall file its QIP application on August 31<sup>st</sup> of every year, beginning 2024, to become effective on January 1st of the next year.

3. Kentucky-American shall file its QIP application related to QIP true-up the projected program costs and revenues, no later than March 31st following the end of each 12-month QIP period, with the actuals for the same period.

4. For the QIP true-up filing due on or before March 31, 2025, the balancing adjustment true-up to the QIP shall become effective on July 1st, 2025.

5. If Kentucky-American does not request a true up for the March 2025 filing, Kentucky-American shall file with the Commission stating the same.

6. The remainder of the May 3, 2024 Order not in conflict with this Order remains in effect.

7. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION

Chairman



Vice Chairman

Commissioner

*Mary Pat Regan* *by Aft with Permission*

ENTERED  
AUG 12 2024  
rCS  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

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