

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE FEASIBILITY AND)
ADVISABILITY OF KENTUCKY-AMERICAN WATER) CASE NO. 2001-117
COMPANY'S PROPOSED SOLUTION TO ITS WATER)
SUPPLY DEFICIT)

ORDER

On August 21, 1997, at the conclusion of its investigation of Kentucky-American Water Company's ("Kentucky-American") sources of supply and future demand, the Commission directed Kentucky-American to "take the necessary and appropriate measures to obtain sources of supply so that the quantity and quality of water delivered to its distribution system shall be sufficient to adequately, dependably, and safely supply the total reasonable requirements of its customers under maximum consumption through the year 2020."¹

Throughout the course of that investigation, Kentucky-American advised the Commission of its intent to augment its water supply by purchasing water from the Louisville Water Company and constructing a pipeline to transport this water to its area of operations. In late 1999 and early 2000, in light of resolutions of the Lexington-Fayette Urban County Government Council that urged a Kentucky River solution to its

¹ Case No. 93-434, An Investigation of the Sources of Supply and Future Demand of Kentucky-American Water Company (Aug. 21, 1997).

supply concerns, however, Kentucky-American reconsidered its plans and instead chose to focus exclusively on the Kentucky River as its sole source of supply.²

On February 19, 2001, the Commission, through its Executive Director, requested that Kentucky-American provide a detailed report on its efforts to ensure “adequate sources of supply to meet customer demand through 2020.”³ Kentucky-American submitted such report 30 days later in which it described the events that occurred since August 21, 1997 and the reasoning behind its current plans for ensuring adequate sources of supply.

In its report, Kentucky-American raises several questions as to the feasibility and adequacy of the Kentucky River solution.⁴ It contends that a Kentucky River solution is contingent upon a series of decisions of several different governmental and private entities and their subsequent implementation. It further asserts that it “cannot unilaterally implement a project to increase the supply of the Kentucky River.”⁵

Based upon the questions presented in the report, the Commission finds that an investigation should be initiated into the feasibility and advisability of Kentucky-American’s proposed solution to its water supply deficit. The purpose of this investigation is fourfold: first, to identify the measures necessary to enable the Kentucky

² Report to Public Service Commission: Efforts to Ensure Adequate Sources of Supply to Meet Customer Demand Through 2020 (Mar. 19, 2001) (hereinafter “Report”) at 2.

³ Letter from Thomas M. Dorman, Executive Director, Public Service Commission, to Roy M. Mundy, President, Kentucky-American Water Company (Feb. 19, 2001).

⁴ Report at 30 – 31.

⁵ Report at 30.

River to adequately supply the total requirements of Kentucky-American's customers in 2020; second, to ascertain their cost and the likelihood of their implementation in sufficient time to meet 2020 customer demand; third, to compare the cost-effectiveness and feasibility of these measures with other alternatives; and fourth, to assess Kentucky-American's ability to meet its short-term deficit.⁶ We further recognize that, as this investigation proceeds, some consideration may also need to be given to the effect of Kentucky-American's plans on other utilities who rely upon the Kentucky River as a source of supply as well as the effect of those utilities' usage.

We undertake this investigation to fulfill our statutory obligation to the public. KRS Chapter 278 clearly imposes the duty upon this Commission to ensure that public water utilities furnish adequate service to their customers and have adopted practices and methods to ensure adequate and reliable supplies of water to meet expected customer demand.⁷ This investigation is necessary to ensure that Kentucky-American's current plans will meet such objectives.

As we initiate this investigation, we are mindful that the answers to many of our questions do not reside in a single location or with a single source. The Commission therefore requests the cooperation, assistance, and participation of all interested parties in our efforts to assemble and analyze the information on this subject. It is our intent to obtain a thorough and complete record upon which this Commission and other policy makers may rely.

⁶ In its report, Kentucky-American indicates that between 2001 and 2008 it will on peak usage days experience a production capacity deficit of between 5.94 million gallons and 9.75 million gallons.

⁷ See KRS 278.030(2); KRS 278.040(1) and (3); KRS 278.260(1); and KRS 278.280(1) and (2).

The Commission further finds that, because of the significant effect that this issue has upon Kentucky-American, its customers, and the economic and social conditions of the central Kentucky area, the public should have ready access to the documents that this investigation assembles. Every member of the public should be permitted the opportunity to become acquainted with these issues and to reach his or her own conclusions. Recognizing that an informed public is a critical part of any solution to the source of supply deficit, we are of the opinion that all documents in this proceeding should be submitted in an electronic medium and should be made available for viewing and distribution through the Internet.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to investigate the feasibility and advisability of Kentucky-American's proposed solution to its sources of supply deficit.
2. Kentucky-American's Report to Public Service Commission: Efforts to Ensure Adequate Sources of Supply to Meet Customer Demand Through 2020 is made part of the record of this proceeding.⁸
3. The record of Case No. 93-434 is incorporated by reference into the record of this proceeding.
4. a. When filing any pleading or other document in this proceeding, all parties shall, except as otherwise required by the Commission, file an original and 3 copies in paper medium and one copy in electronic medium.

⁸ A copy of this report is available on the Internet at the Commission's Website at <http://www.psc.state.ky.us/#II>.

b. When a party is unable to file a document electronically (e.g., materials that are too large or bulky to transfer to electronic medium), it shall file an original and 7 copies.

5. When a party files testimony in this proceeding, it shall file 3 additional copies of that testimony. The original and at least three copies of the testimony shall:

a. Be filed together with cover letter listing each person presenting testimony.

b. Be bound in 3-ring binders or with any other fastener that readily opens and closes to facilitate easy copying.

c. Be tabbed to easily indicate the location of each witness's testimony.

d. Have every exhibit to each witness's testimony appropriately marked.

6. The electronic copy of any pleading or document shall be filed by uploading the files comprising that copy to the file transfer protocol ("FTP") site designated by the Commission's Executive Director.

7. All electronic filings shall be in the following manner:⁹

a. All documents and exhibits, including spreadsheets, shall be submitted in portable document format ("PDF") and be capable of viewing with Adobe Acrobat Reader[®].

b. Spreadsheets shall also be submitted in Microsoft Excel[®]97 format.

⁹ For additional discussion of the Commission's procedures for electronic filings, see http://www.psc.state.ky.us/pscecf/filing_instructions.

c. All documents shall follow the naming conventions set forth in Appendix A.

d. The filing shall include an introductory document in PDF format that is named "Read1st" and that contains a general description of the filing. The electronic version of the cover letter accompanying the paper filing may be substituted for a general description.

e. Each filing shall also contain a document in PDF format that is named "Index" and that contains a listing of each file transmitted and a brief description of its contents. The listing shall follow the format set forth below:

<u>File Name</u>	<u>Description</u>
KAW_APP_041100.pdf	Kentucky-American Initial Application – Case 2000-120
KAW_R_PSCDR1_042200.pdf	Kentucky-American Water Company's Response to the Commission's First Information Request
AGKY_RT_BFP_042300.pdf	Rebuttal Testimony of Attorney General Witness Benjamin F. Pierce

f. All files containing spreadsheets shall be self-contained and shall not contain any linked references to or macro commands involving external files.

g. If the electronic filing does not include all documents contained in the paper version (e.g., materials that are too large or bulky to transfer to electronic medium), then the absence of these materials shall be noted in the "Read1st" and "Index" files.

h. The electronic version of each document, will, where appropriate, be bookmarked to distinguish sections of the document.

8. Each party, upon completing its transfer of files to the designated FTP site, shall notify the Commission and all other parties by electronic mail message. This message shall be transmitted to the Commission at pscfilings@mail.state.ky.us and to all parties' designated e-mail addresses, and shall state the nature of the filing, case

number, date and time of file(s) transmission, name of the party responsible for the filing, and the name and e-mail address of the person making the electronic filing. It shall also contain, as an attachment, a copy of the "Read1st" and "Index" files.

9. a. Within 10 days of the date of this Order, Kentucky-American shall notify the Commission in writing the e-mail address to which all electronic notices and messages related to this proceeding should be served.

b. All other parties granted leave to intervene in this proceeding shall, within 5 days of entry of the Order granting intervention, notify the Commission and all other parties of record in writing of the e-mail address to which all electronic notices and messages related to this proceeding should be served.

10. When filing any document with the Commission, the party making the filing shall certify that:

a. The electronic version of the filing is a true and accurate copy of the document(s) filed in paper medium.

b. The electronic version of the filing has been transmitted to the Commission.

c. The party has notified the Commission and the other parties by electronic mail that the electronic version of the documents has been transmitted to the Commission.

11. The Commission's Executive Director shall make all electronic filings available at <ftp://205.204.186.239/pscecf> for public viewing and downloading.

12. Any party serving a request for information upon another party to this proceeding shall at the time of service of that request also serve upon that party by

electronic mail an electronic copy of its request. The electronic copy shall be in Microsoft Word®97 format.

13. A document shall be considered timely filed with the Commission if it has been successfully transmitted in electronic medium to the designated FTP site within the time allowed for filing and the original and copies in paper medium are received by the Commission on the next business day following the electronic filing.

14. Any document or pleading filed with the Commission shall continue to be served upon all parties in paper medium. Service of any document or pleading shall be made in accordance with Administrative Regulation 807 KAR 5:001, Section 3(7), and Kentucky Civil Rule 5.02.

15. All documents that the Commission requires any party to file with the Commission shall also be served upon all parties of record at or before the time of filing.

16. Kentucky-American shall, no later than June 15, 2001, file with the Commission the original, 3 copies in paper medium, and an electronic copy of the information listed in Appendix B. Each paper copy of the requested information shall be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Kentucky-American shall include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention shall be given to copied material to ensure its legibility.

Done at Frankfort, Kentucky, this 15th day of May, 2001.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2001-117 DATED MAY 15, 2001

FILE NAMING CONVENTIONS

General

Each document shall reflect the name of the sponsoring party, the type of filing, the date of filing, and the document format as shown below:

PartyName_DocType_Date of Filing.Format

Party Name

AGKY – Attorney General of Kentucky
KAW – Kentucky-American Water Company
LFC – Lexington-Fayette County Urban Government
PSC – Public Service Commission

Document Type

APP – Application
APX – Appendix
B – Brief
DR – Data Request
DT – Direct Testimony
EX – Exhibit
INDEX - Index
M - Motion
R – Response
RB – Reply Brief
READ1ST – Cover/Transmittal Letter
RM – Response/Reply to Motion
RT – Rebuttal Testimony
SCH – Schedule
UR – Updated Response (amended or supplemental responses to data requests)

1. Application.

a. If the application is composed of several files, each representing a different exhibit or schedule, then the document indicator should indicate the schedule or exhibit's number or letter. An underscore (_) should separate the schedule or exhibit from the application symbol.

Example: The document indicator for Exhibit A of the Application is: APP_EXA.

Example: The document indicator for Schedule 1 of Exhibit A of the Application is: APP_EXA_SCH1.

b. Although testimony may be considered as an exhibit to an application, files comprising a witness's testimony for file naming purposes should not be listed as part of the application. The file naming conventions for testimony, which are listed immediately below, should be used.

2. Testimony.

a. The document type indicator should show the initials of the witness. An underscore (_) should separate the testimony symbol from the initials.

Example: The document indicator for the direct testimony of witness Franklin Delano Roosevelt is: DT_FDR.

Example: The document indicator for the rebuttal testimony of witness Ulysses S. Grant is RT_USG.

b. If a witness's testimony is comprised of several files that reflect schedules, exhibits or appendices to his or her testimony, then the document indicator should indicate the schedule or exhibit's number or letter. An underscore (_) should separate the schedule or exhibit from the testimony symbol and the witness's initials.

Example: The document indicator for Exhibit A of the direct testimony of witness James A. Garfield is DT_JAG_EXA.

Example: The document indicator for Schedule 4 of Exhibit A of the direct testimony of witness Chester B. Arthur is DT_CBA_EXA_SCH4.

c. If a witness's testimony or an exhibit or schedule thereto is subsequently amended or revised, the document indicator should reflect the revisions with the addition of the Update symbol (U) in front of the testimony symbol.

Example: The document indicator for the amended direct testimony of witness William McKinley is UDT_WK.

Example: The document indicator for the amended Exhibit A to the rebuttal testimony of witness William McKinley is URT_WAK_EXA.

3. Data Requests and Responses.

a. If the document is a data request (DR), the document indicator should indicate the number of the request.

Example: The Commission's first data request to Kentucky-American Water Company is: DR1.

b. If the document is a response (R) to a data request, the document type should indicate the pleading (and the party) to which a response is being made. An underscore (_) should separate the R from the indicator for the data request.

Example: The document type indicator for Kentucky-American Water Company's Response to the Commission's First Data Request to Kentucky-American Water Company is: R_PSCDR1.

c. If a party's response to a data request comprises several files, then the document indicator should indicate the item number of the request to which response is made. A pound sign (#) should separate the item number from the data request symbol.

Example: The document type indicator for Kentucky-American Water Company's Response to Item 23 of the Commission's First Data Request to Kentucky-American Water Company is: R_PSCDR1#23.

d. If a party's response to an individual item of a data request is also comprised of several files, then the document indicator should indicate the schedule and the item of the request to which response is made. A pound sign (#) should separate the item number from the data request symbol and an underscore (_) should separate the item number from the schedule number or letter.

Example: The document type indicator for Schedule 2 of Kentucky-American Water Company's Response to Item 7(a) of the Commission's First Data Request to Kentucky-American Water Company is: R_PSCDR1#7a_SCH2.

e. If a party's response to a data request or an exhibit or schedule thereto is subsequently amended or revised, the document indicator should reflect the revisions with the addition of the Update symbol (U) in front of the response symbol.

Example: The document type indicator for an updated or amended version of Schedule 2 of Kentucky-American Water Company's Response to Item 7(a) of the Commission's First Data Request to Kentucky-American Water Company is: UR_PSCDR1#7a_SCH2.

4. Motions

If a party files more than one motion with the Commission on the same day, it should for file naming purposes only number each motion.

Example: On the same day, Kentucky-American Water Company files its Motion to Strike Testimony and its Motion to Postpone Hearing. The document type indicator for the Motion to Strike is M1. The document type indicator for the Motion to Postpone is M2.

5. Responses to Motions

a. If the document is a response to a motion (RM), the document type should indicate the party that made the motion. An underscore (_) should separate the RM from the indicator for the moving party.

Example: The document type indicator for the Attorney General's Response to Kentucky-American Water Company's Motion to Strike is: RM_KAW.

b. If the document is a reply to a party's response to a motion, the document type should indicate the party that made response. An underscore (_) should separate the RM from the indicator for the moving party.

Example: The document type indicator for Kentucky-American Water Company's Reply to the Attorney General's Response to Kentucky-American Water Company's Motion to Strike is: R_RM_AGKY.

6. Read1st

This document contains the transmittal or cover letter that accompanies the paper medium filing.

7. Index

This document contains the name of each electronic file with a brief description of the file's contents.

Date

Parties should indicate the date of filing as a 6-digit number (Month/Day/Year). The date of filing is the date of transfer to the designated FTP Site.

Example: If the Attorney General filed testimony with the Commission on May 2, 2000, the date of filing is: 050200.

Format

.pdf – Portable Document Format (Adobe Acrobat)
.xls – Microsoft Excel '97 Spreadsheet

General Examples:

1. On May 19, 2000, Kentucky-American Water Company files its first data request to the Attorney General. The electronic version should be named: **KAW_DR1_051900.pdf.**
2. On November 22, 2000, the Attorney General files his response to Kentucky-American Water Company's second data request. This request is composed of several files. The file that represents Schedule A (an Excel spreadsheet) of the response to Item 18(b) is named: **AGKY_R_KAWDR2#18b_SCHA_112200.xls**
3. On December 1, 2000, Lexington-Fayette County Urban Government files a response to Kentucky-American Water Company's Motion to Strike. The file is named: **LFC_RM_KAW_120100.pdf.**
4. On June 1, 2000, Kentucky-American Water Company files its response to the Commission's third data request. The index to its electronic filing is named: **KAW_Index_060100.pdf.** The cover letter to its paper medium filing is named: **KAW_Read1st_060100.pdf.** The file that represents Schedule 3 (an Excel spreadsheet) of Kentucky-American Water Company's Response to Item 12(b)(2) is named: **KAW_R_PSCDR3#12b2_SCH3_060100.xls.**

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2001-117 DATED MAY 15, 2001

1. Provide all correspondence between Kentucky-American and the Kentucky River Authority since August 21, 1997 in which improvements to locks and dams along the Kentucky River or any other issues related to Kentucky-American's withdrawal of water from the Kentucky River are discussed.

2. Provide all correspondence between Kentucky-American and the Lexington-Fayette Urban County Government since August 21, 1997 regarding Kentucky-American's water supply.

3. At page 6 of its Report to Kentucky Public Service Commission: Source of Supply and Treatment Status, Kentucky-American states that it "re-assessed whether significant progress had been made in implementing a Kentucky River supply augmentation during the four years of the ongoing investigation."

a. Describe this re-assessment process.

b. Provide all documents, including correspondence, internal memoranda, and electronic mail messages that were reviewed or created as a result of this re-assessment process.

4. State the name and position of each person employed by Kentucky-American or American Water Company or an affiliate of American Water Company who participated in Kentucky-American's decision to abandon the pipeline solution to the sources of supply deficit and to adopt the Kentucky River solution.

5. Identify the persons who served upon the Fayette County Water Supply Council from January 1998 through December 1999.
6. Provide the plan that the Fayette County Water Supply Planning Council adopted in July 1999 regarding the water supply deficit.
7. Identify each person who served upon the LFUCG Technical Advisory Group and the group that he or she represented.
8. Provide the minutes of each meeting of the Technical Advisory Group of the LFUCG Council on the water supply problem.
9. Provide all reports that the Technical Advisory Group of the LFUCG Council presented to the LFUCG Council on the water supply problem.
10. Provide a transcript of Steve Reeder's presentation to the LFUCG Council on November 22, 1999.
11. Provide a transcript of the Kentucky Water Resources Research Institute's ("KWRRRI") presentation to the LFUCG Council on December 6, 1999.
12. Provide a copy of the progress report that was submitted to LFUCG as required by Recommendation 2h of LFUCG Resolution No. 679-99.
13. Provide all correspondence between Kentucky-American and the Division of Water ("DOW") since 1997 concerning Kentucky-American's withdrawal permit.
14.
 - a. List the date of each meeting since August 21, 1997 held between Kentucky-American and the DOW concerning Kentucky-American's withdrawal permit.
 - b. For each meeting listed, provide the minutes of the meeting and notes of Kentucky-American's representatives of such meeting.
15. Provide Kentucky-American's current withdrawal permit.

16. List and describe each application that Kentucky-American currently has pending before the DOW that involves Kentucky-American's withdrawal permit.

17. Provide all correspondence between Kentucky-American and the DOW since January 1, 1995 concerning the operational capabilities of Kentucky-American's existing production facilities.

18. Provide all studies that KWRRI has performed on the Kentucky River's capacity to supply water and/or needed improvements to the Kentucky River.

19. Provide a transcript of the Blue Grass Area Development District's presentation to LFUCG on June 27, 2000 on the progress of the Consortium.¹

20. a. List the members of the Consortium and state when each joined the group.

b. State for each member of the Consortium:

(1) Its current maximum daily demand;

(2) Its projected maximum daily demands for years 2005, 2010 2015, and 2020;

(3) Its average daily demand;

(4) Its maximum daily water production capacity;

(5) Its source(s) of supply;

(6) The maximum daily amount of water that it may withdraw from its water sources.

¹ The "Consortium" refers to a group of central Kentucky water suppliers, primarily municipal utilities, that has been discussing water issues. The Blue Grass Area Development District serves as a facilitator for the group. See Report at 22.

21. a. Provide the level of Kentucky-American's actual expenditures for consumer conservation programs for each year during the period from 1995 to 2000.

b. Provide the projected or budgeted level of Kentucky-American's expenditures for consumer conservation programs for each year during the period from 2001 to 2008.

22. a. Identify and describe each demand-side management program or activity that Kentucky-American has implemented since August 21, 1997. Include in the description of each program the estimated annual and daily reduction upon water consumption that the program has produced.

b. Identify and describe each demand-side management program or activity that Kentucky-American has considered since August 21, 1997

c. For each program listed in Item 27(b) that was not implemented, explain why.

23. a. List the date of each meeting of the Consortium since December 9, 1999.

b. For each meeting listed, provide the minutes of the meeting and notes of Kentucky-American's representatives for the meeting.

24. a. Aside from discussions held during Consortium meetings, has Kentucky-American discussed the purchase of water or transportation of water with Consortium members or other water utilities?

b. If yes,

(1) Identify each water utility with which Kentucky-American has held such discussions, state the date of each discussion, and describe the nature of these discussions.

(2) Provide the minutes and notes of each discussion.

(3) Provide all correspondence with these water utilities in which the sale of water to or transportation of water for Kentucky-American was discussed.

(4) Provide all internal memoranda, electronic messages or other internal communication forms in which the sale of water to or transportation of water for Kentucky-American by other utilities was discussed

25. How does Kentucky-American's current water consumption compare to its forecasted consumption as presented in Case No. 93-434?

26. What effect, if any, have recent weather conditions experienced since August 21, 1997 had on Kentucky-American's "Drought Average Day" demand calculation and thus its overall demand calculations?

27. a. List each potential solution that Kentucky-American investigated prior to selecting the Kentucky River solution as the solution to its source of supply deficit.

b. For each alternative listed above, provide a description of the alternative and its estimated cost.

c. Show how Kentucky-American rated each alternative.

28. Provide Kentucky-American's present demand forecast for each year from 2001 through 2020.

29. What effect, if any, would the completion of the proposed improvements to Dam 10 have on the level of water that Kentucky-American can safely obtain from the Kentucky River?

30. a. Provide the conservation and demand management plan that Kentucky-American was required to develop by Recommendation 2h of LFUCG Resolution No. 679-99.

b. Provide all correspondence between Kentucky-American and DOW concerning this plan.

c. State when the plan was submitted to the Commission for approval.

31. Describe the current status of the Kentucky River Authority's efforts to acquire Dams 6, 7, 8, 9, and 11.

32. Describe the current status of the Kentucky River Authority's environmental assessment of Dam 10.

33. Describe the current status of the Kentucky River Authority's study of possible modifications of East Kentucky Power Company's intake in Pool 10.

34. Describe the current status of the Kentucky River Authority's environmental assessment of Dam 10.

35. State the estimated cost of the Kentucky River solution and the expected sources of funding to meet these costs.

36. a. Provide the Kentucky River Authority's current valve operating plan for the Kentucky River.

b. Does the Kentucky River Authority have the legal authority to implement such a plan? Explain.

c. Does the Kentucky River Authority have personnel and financial resources to implement such a plan? Explain.

37. Provide a copy of the federal statutes or public law that authorized funding for the design and construction work on Dam 10. In lieu of furnishing a copy, a citation to the statute or public law may be provided.

38. Provide the most current estimates for the amount of time necessary to complete each phase of the Kentucky River Solution.

39. a. Is the proposed Kentucky River solution, in Kentucky-American's opinion, the best technical solution to Kentucky-American's source of supply deficit? Explain.

b. If Kentucky-American does not consider the Kentucky River solution as the best technical solution to the source of supply deficit, identify the course of action that Kentucky-American considers to be the best technical solution and explain why Kentucky-American has chosen not to implement this course of action.

40. a. Is the proposed Kentucky River solution, in Kentucky-American's opinion, the most economically efficient solution to Kentucky-American's source of supply deficit? Explain.

b. If Kentucky-American does not consider the Kentucky River solution as the most economically efficient solution to the source of supply deficit, identify the course of action that Kentucky-American considers to be the most economically efficient solution and explain why Kentucky-American has chosen not to implement this course of action.