

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

COMPLIANCE OF KENTUCKY-AMERICAN)	
WATER COMPANY, AMERICAN WATER WORKS)	
COMPANY, RWE AKTIENGESELLSCHAFT AND)	
THAMES WATER AQUA HOLDINGS GMBH WITH)	
THE PROVISIONS OF THE ORDERS)	CASE NO. 2002-00277
APPROVING THE TRANSFER OF CONTROL OF)	
KENTUCKY-AMERICAN WATER COMPANY TO)	
RWE AKTIENGESELLSCHAFT AND THAMES)	
WATER AQUA HOLDINGS GMBH)	

ORDER

In Case No. 2002-00317,¹ the Commission approved the transfer of control of Kentucky-American Water Company (“Kentucky-American”) from American Water Works Company (“AWWC”) to Thames Water Aqua Holdings GmbH (“Thames”), Thames Water Aqua US Holdings, Inc. (“TWUS”), and RWE Aktiengesellschaft (“RWE”) subject to 61 conditions. One of these conditions was that RWE, Thames, TWUS, AWWC, and Kentucky-American obtain Commission approval prior to the payment of any dividend or transfers of any funds within a calendar year that collectively represent more than 5 percent of Kentucky-American’s retained earnings as of December 31 of the prior calendar year to RWE, Thames, TWUS or any other entity related to RWE.²

¹ Case No. 2002-00317, The Joint Petition of Kentucky-American Water Company, Thames Water Aqua Holdings GmbH, RWE Aktiengesellschaft, Thames Water Aqua US Holdings, Inc., Apollo Acquisition Company and American Water Works Company, Inc. for Approval of a Change of Control of Kentucky-American Water Company (Ky.PSC December 20, 2002).

² Id., App. A at 6.

We imposed this condition to ensure Kentucky-American's financial ability to provide reliable service and to guard against any effort to drain Kentucky-American's treasury to finance RWE's acquisition of AWWC or pay the premium associated with the acquisition.³ It enables us to monitor transfers from Kentucky-American and prevent unusual or extraordinary transfers of funds. Absent the imposition of this condition, our statutory ability to monitor and prevent such conduct is very limited.

On July 21, 2004, Kentucky-American declared a dividend on common stock of \$611,282 that it proposes to pay on September 20, 2004. In accordance with the Commission's Order of December 20, 2002, Kentucky-American, Thames, TWUS, RWE, and AWWC (jointly "Applicants") requested Commission approval of this common stock dividend on August 9, 2004.

Applicants state that Kentucky-American's declared dividend of \$611,282 is in conformity with the historical dividend policy of paying 75 percent of earnings available for common dividends.⁴ Collectively the declared dividend of September 20, 2004 and dividends paid earlier this year represent more than 5 percent⁵ of Kentucky-American's

³ Case No. 2002-00018, Application For Approval of the Transfer of Control of Kentucky-American Water Company to RWE Aktiengesellschaft and Thames Water Aqua Holdings GMBH (Ky.PSC May 30, 2002) at 20 – 21.

⁴ See Exhibit to Joint Applicants' Request for Approval of Dividend Payment.

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<u>Quarter</u>	<u>Quarter Ending Date</u>	<u>Payment Date</u>	<u>Dividend Amount</u>
4 th Quarter 2003	12-12-04	03-29-04	\$ 799,369
1 st Quarter 2004	04-02-04	06-28-04	109,717
2 nd Quarter 2004	06-25-04	09-20-04	+ 611,282
Total			\$ 1,520,368
Retained Earnings as of 12-31-03			÷ 26,304,492
Ratio of Dividends to Retained Earnings			<u>5.78%</u>

accumulated retained earnings as of December 31, 2003, which has a balance of \$26,304,492.⁶

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Kentucky-American's declared dividend is consistent with the dividend policy that existed prior to RWE's acquisition of control and is not unusual or extraordinary.

2. There is no evidence that the proposed dividend poses any significant risk to Kentucky-American's ability to provide reliable service.

3. Kentucky-American's proposed September 20, 2004 common stock dividend of \$611,282 should be approved.

IT IS THEREFORE ORDERED that Kentucky-American's proposed September 20, 2004 common stock dividend of \$611,282 is approved.

Done at Frankfort, Kentucky, this 6th day of October, 2004.

By the Commission

ATTEST:


Executive Director

⁶ Annual Report of Kentucky-American Water Company to the Public Service Commission of the Commonwealth of Kentucky for the Year Ended December 31, 2003 at 13.