

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE FEASIBILITY AND)
ADVISABILITY OF KENTUCKY-AMERICAN) CASE NO. 2001-00117
WATER COMPANY'S PROPOSED SOLUTION TO)
ITS WATER SUPPLY DEFICIT)

ORDER

Lexington-Fayette Urban County Government ("LFUCG") has moved that Kentucky-American Water Company ("KAWC") be required to supplement the record of this proceeding with a consultant's report on KAWC's and Bluegrass Water Supply Commission's ("BWSC") regional plans. The Attorney General and KAWC have responded to the motion. Finding that the report is not in final form, we deny the motion.

LFUCG seeks to compel KAWC's submission of a consultant's report on the BWSC's "Water System Regionalization Feasibility Study" and KAWC's design, construction, and operation of a water treatment plant on Pool 3 of the Kentucky River. On July 11, 2006, KAWC acknowledged in a separate proceeding that it had commissioned such a report and would submit such report as part of its application for a Certificate of Public Convenience and Necessity to construct a new water treatment plant.¹

¹ Case No. 2006-00197, Joint Petition of Kentucky-American Water Company, Thames Water Aqua Holdings GmbH, REW Aktiengesellschaft, Thames Water Aqua US Holdings, Inc, and American Water Works Company, Inc. for Approval of a Change in Control of Kentucky-American Water Company. See Joint Petitioners' Response to Attorney General's First Request For Information, Item 30.

LFUCG asserts that the BWSC's study indicates that a regional treatment plant would result in lower costs for all Central Kentucky water users, including KAWC customers, than an approach that emphasizes KAWC's needs only. It further asserts that KAWC "does not intend to compare the cost-effectiveness and feasibility of its preferred measure with the BWSC alternative as part of this proceeding unless ordered to do so."²

LFUCG argues that "[i]t is not efficient, economical, or reasonable for KAW[C] to withhold the type of information contained in the Report until its own plan has proceeded to the point of requesting a certificate of convenience."³ It notes that one of the stated purposes of this proceeding was to compare the cost-effectiveness and feasibility of the measures that could resolve KAWC's current source of supply problems and that immediate disclosure and review of the report is necessary to achieve that purpose.⁴

In its response, KAWC indicates a willingness to disclose the final version of its consultant's report. It notes that the report is presently in draft form and is subject to change. It further notes that LFUCG has refused to release documents to the public because the documents were preliminary in nature.

The Commission finds that LFUCG's motion should be denied. Neither LFUCG nor the AG have stated a compelling reason why a preliminary report, subject to change

² LFUCG's Motion at 2.

³ Id. at 2-3.

⁴ In his response, the AG supports LFUCG's motion. He argues that the requested report is "vital to a meaningful comparison of Kentucky American's planning activity with the Bluegrass Water Supply Commission's alternative. . . . [E]xpress[ed] in the purpose of this investigation . . . is a goal of disclosure of water supply planning information as soon as it is reasonably available." AG's Response at 2. He asserts that KAWC's refusal to provide the report "appears to have more of a basis in some sort of strategic decision to provide a tactical advantage to" KAWC's plan. Id. at 3.

and revision, should be disclosed at this time. They provide no legal authority to support the production of an incomplete, preliminary report. The probative value and relevance of such a report, moreover, is very limited when compared to the report's final version.

While we find that LFUCG's motion should be denied, we share its underlying concerns.⁵ Full and complete disclosure of relevant information to all parties is necessary and essential if a feasible and cost-effective resolution of the source of supply issue is to be found and to win the acceptance of the general public. Moreover, all stakeholders should be allowed adequate time to review this information, make appropriate comment, and submit relevant rebuttal evidence. Should KAWC apply for a certificate of public convenience and necessity, the Commission expects KAWC to disclose all relevant studies and reports and will ensure that parties have adequate time to review those studies and present evidence upon them.

IT IS THEREFORE ORDERED that LFUCG's Motion is denied.

Done at Frankfort, Kentucky, this 2nd day of October, 2006.

By the Commission

ATTEST:


Executive Director

⁵ We further concur with LFUCG's position that "[a]ny solution to the water supply deficit issue that ignores a potentially lower cost solution for KAW[C]'s ratepayers is not in the public interest." LFUCG Motion at 3. Any proceeding that considers KAWC's construction of a water treatment plant on Pool 3 of the Kentucky River must consider and evaluate all other alternatives that may provide a lower cost solution.