

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT PETITION OF KENTUCKY-AMERICAN)	
WATER COMPANY, THAMES WATER AQUA)	
HOLDINGS GMBH, RWE AKTIENGESELLSCHAFT,)	
THAMES WATER AQUA US HOLDINGS, INC.,)	CASE NO. 2006-00197
AND AMERICAN WATER WORKS COMPANY,)	
INC. FOR APPROVAL OF A CHANGE IN CONTROL)	
OF KENTUCKY-AMERICAN WATER COMPANY)	

O R D E R

On June 5, 2006, the Commission received an application filed by RWE Aktiengesellschaft, Thames Water Aqua Holdings GmbH, Thames Water Aqua US Holdings, Inc. ("TWUS"), American Water Works Company ("AWWC"), and Kentucky-American Water Company ("KAWC") (collectively "Joint Petitioners") requesting approval, under KRS 278.020, of the transfer and acquisition of control of KAWC. Joint Petitioners propose to sell up to 100 percent of the shares of AWWC in one or more public offerings. Prior to the closing of the initial public offering, TWUS will be merged into AWWC, with AWWC being the surviving corporation.

While AWWC will retain ownership of KAWC, ownership of AWWC will be transferred due to the public offering of AWWC stock. This will effectively result in change of control of KAWC. KRS 278.020(5) provides that no person shall acquire or transfer ownership or control of any utility under jurisdiction of the Commission without prior approval of the Commission. KAWC is a utility subject to the jurisdiction of the Commission. Under Section 5 of the statute, the Commission is required to grant its

approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

Similarly, KRS 278.020(6) provides that no party shall acquire control, either directly or indirectly, of any utility without first obtaining approval from the Commission. This section of the statute mandates that the Commission approve any proposed acquisition that is made in accordance with law, for a proper purpose, and is consistent with the public interest.

If the transaction is reviewed pursuant to KRS 278.020(6), the Commission will consider the application within 60 days, which, upon a finding of good cause, may be continued for an additional 60 days. However, while the Commission will nonetheless proceed with the case in an expeditious fashion, if KRS 278.020(5) controls, there is no statutory timeframe within which the Commission must finally decide this matter.

Determining whether Section 5 or Section 6 of KRS 278.020 is controlling presents an issue that should be addressed before any ultimate decision regarding the scheduling of this matter.

IT IS THEREFORE ORDERED that:

1. The parties to this proceeding shall file with the Commission, within 7 days of the date of this Order, written memoranda addressing the issue of whether KRS 278.020(5) and/or KRS 278.020(6) should apply to this case.¹

¹ Contemporaneous with the entry of this Order, the Commission has also entered a procedural schedule to review and investigate the merits of the pending application. However, based on the results of the request for memoranda herein, the Commission reserves the right to modify the procedural schedule.

2. Responses to the written memoranda, if any, shall be filed no later than 5 days thereafter.

Done at Frankfort, Kentucky, this 19th day of June, 2006.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Executive Director