

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)

ATTORNEY GENERAL'S RESPONSE TO MOTION
BY LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

The Attorney General submits his Response to Lexington-Fayette Urban County Government's Motion for an Order requiring Kentucky American Water Company to Supplement the Record in this Proceeding. The Attorney General joins in the request and submits the following in support of his position.

This proceeding, which began in 2001, is an investigation into Kentucky American Water Company's planning for meeting its water supply deficit. As noted by the LFUCG, a comparison of the cost-effectiveness and feasibility of Kentucky American's proposal with other alternatives is a central issue of this investigation. The importance of this issue is difficult to overstate; furthermore, of equal importance is resolving this issue as soon as reasonable. Clearly, in opening this investigation, the Commission was uncomfortable in waiting, a potentially indefinite period of time, for Kentucky American Water Company to file an application for a Certificate of Convenience and Public Necessity. It is simply too important to delay study of this issue.

The information sought is vital to a meaningful comparison of Kentucky American's planning activity with the Bluegrass Water Supply Commission's alternative. Again, express in the purpose of this investigation (as well as the Commission's prior investigation into Kentucky American Water Company's sources of supply and future demand – Case No. 93-434) is a goal of disclosure of water supply planning information as soon as it is reasonably available. KRS Chapter 278 readily affords this Commission the power to order disclosure.

During the past two decades alone, there have been a number of studies of water supply alternatives for central Kentucky. In every major study (such as the Kentucky River Basin Steering Committee, the Kentucky River Authority Study, the Fayette County Water Supply Planning Council, etc.), Kentucky American has been given a seat at the table. Yet, Kentucky American is unwilling to share in an exchange of this critical information.

In fact, as has been the case for a number of years, Kentucky American's water supply planning including a solution for its sources of supply challenge is an issue that Kentucky American asserts and discusses publicly on a continuing basis. For a recent example, in its pending application for approval of the RWE plane of divestiture, discussion of its source of supply planning and the corresponding capital investment was a central element of its Application. Thus, lack of disclosure of the report has no basis whatsoever in Kentucky American's reticence to discuss this issue prior to the filing of an application for a certificate of convenience and public necessity. The secrecy appears to have more of a basis

in some sort of strategic decision to provide a tactical advantage to Kentucky American's plan.

For approximately two decades, Kentucky American has been struggling to come to terms with its water supply challenge. It is clear that meeting this challenge will require a significant investment. The Attorney General seeks the lowest cost-effective viable solution to this challenge. Presently, there is a question whether the Bluegrass Water Supply Commission's regional plan offers that result. Resolution of this question as soon as reasonable is critical to Kentucky American's customers, and it should be done using the best information that is available. Accordingly, the Attorney General joins in the LFUCG motion for the Commission to order Kentucky American to file its consultant's report.

WHEREFORE, the Attorney General responds to the Motion of the Lexington-Fayette Urban County Government and joins in the Motion.

Respectfully submitted,

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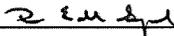
Frankfort, Kentucky 40601-8204

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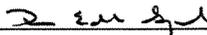
Notice of Filing

Counsel gives notice that (pursuant to Instruction 4(a) of the Commission's 15 May 2001, Order of procedure) the original and three copies in paper medium have been filed by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601. Further, one copy in electronic medium has been filed by uploading the filing to the file transfer protocol site designated by the Executive Director all on this 13th day of March 2005.


Assistant Attorney General

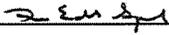
Instruction 10 Certification

Per Instruction 10 of the Commission's 15 May 2001, Order of procedure, counsel certifies that the electronic version is a true and accurate copy of the document filed in paper medium, the electronic version has been transmitted to the Commission, and the Commission and other parties have been notified by electronic mail (on 13 September 2006) that the electronic version has been transmitted to the Commission.


Assistant Attorney General

Certificate of Service

Counsel certifies that this response has been served by mailing a true and correct copy of the same, first class postage prepaid, to Roy W. Mundy II, Kentucky-American Water Company, 2300 Richmond Road, Lexington, Kentucky 40502; Lindsey W. Ingram Jr., Stoll, Keenon & Park, LLP, 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801; Joe F. Childers, 201 West Short Street, Suite 310, Lexington, Kentucky 40507; Phillip J. Shepherd, P. O. Box 782, Frankfort, Kentucky 40602; Gerald J. Edelen, Department of the Army, Corps of Engineers, P. O. Box 59, Louisville, Kentucky 40201; Libby Jones, P. O. Box 487, Midway, Kentucky 40347; Damon R. Talley, P. O. Box 150, Hodgenville, Kentucky 42748-0150; Robert M. Watt, III, Stoll, Keenon & Park, LLP, 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801; David F. Boehm, Boehm, Kurtz & Lowry, 36 East Seventh Street, Suite 2110, Cincinnati, Ohio, 45202; Don R. Hassall, Bluegrass Water Supply Consortium, c/o Bluegrass ADD, 699 Perimeter Drive, Lexington, Kentucky 40517-4120; Anthony G. Martin, P. O. Box 1812, Lexington, Kentucky 40588; and David Barberie, Lexington-Fayette Urban County Government, Department of Law, 200 East Main Street, Lexington, Kentucky 40507 all on this 13th day of September 2006.


Assistant Attorney General