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September 16, 2005

SEP 19 2005
PUBLIC SERVICE
COMMISSION

Ms. Elizabeth O'Donnell
Public Service Commission
PO Box 615
211 Sower Blvd.
Frankfort, KY 40602-0615

re: Kentucky-American No. 2005-00214

Dear Ms. O'Donnell:

Enclosed please find the original and ten (10) copies of the Public Comments of Bluegrass FLOW, Inc., in the above case. Thank you.

Very truly yours,

MARTIN, OCKERMAN & BRABANT LLP


Foster Ockerman, Jr.

FOJ/ms

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF)
KENTUCKY-AMERICAN)
WATER COMPANY FOR)
APPROVAL OF THE TRANSFER)
OF CONTROL AND OWNERSHIP)
OF JACOBSON PARK)

CASE NO. 2005-00214

SEP 19 2005

PUBLIC SERVICE
COMMISSION

**PUBLIC COMMENT FROM
BLUEGRASS FLOW, INC.**

Now comes Bluegrass FLOW, Inc., a Kentucky nonprofit corporation, and pursuant to the Order of the Commission entered August 11, 2005, offers the following comments on the proposed transfer.¹

Said order extends to the public a period of thirty (30) days after publication of a Public Notice by KAWC. KAWC is ordered to attest to publication within thirty (30) days of the Order; but a search of the Commission's web site performed on September 16, 2005 did not reveal the filing of such attestation. Nevertheless, on information and belief, Bluegrass FLOW, Inc. understands that the publication may have occurred on August 19, 2005, and this Comment is timely filed.

Introduction

The proposed transfer and related agreements were presented to the Lexington-Fayette Urban County Council for consideration earlier this year. At the very beginning of that portion of the agenda when

¹ Bluegrass FLOW, Inc., has a motion pending before the Commission to intervene in this matter and states that the filing of this public comment does not amount to nor shall it be taken as a withdrawal of that motion which it still prays to be granted.

questions and comments could be presented, a motion to “call the question” and terminate discussion was made and passed, whereupon the Council voted on the main motion to enter into certain agreements with Petitioner regarding, *inter alia*, transfer of control and ownership of Jacobson Park and related real property without public comment.

As a result of this pre-emptory termination of an opportunity for questions by members of the public as well as members of the Urban County Council, a hearing conducted by the Commission would be the only forum in which questions can be raised and issues discussed.

As an introductory request, Bluegrass FLOW, Inc. requests a public hearing in this matter.

Comments

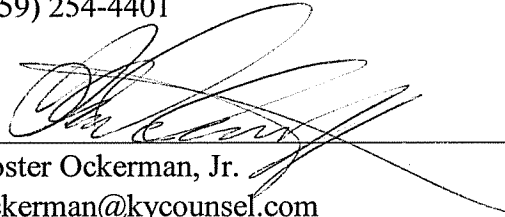
1. The arbitrary procedure followed by the majority of the Urban County Council in terminating debate and discussion prevented the question being raised of whether a full environmental study has been or should be conducted before the Urban County Government acquires any ownership interest in Jacobson Park and associated real property. Decades of automotive exhaust along the highway which bisects the lake (only a portion of which is proposed to be conveyed to the LFUCG) and the resulting contaminants which precipitate into the water warrant such an investigation and analysis of the results before transferring ownership and control, and therewith a level of potential responsibility for remedial actions, to the public through the LFUCG. It is difficult to imagine that any acquirer of a substantial amount of real property today would do so without some investigation to determine the degree of risk. It may be a risk the majority of the Council is prepared to take, but it should not be a risk this Commission on behalf of the public should allow.

2. A significant component of the consideration for inducing the Government to accept the proposed transfer of ownership and control is the presence of the Lake between Jacobson Park and the golf course; however, the dam which impounds the Lake is not being conveyed, nor is there evident in the documents any requirement on Petitioner to maintain the dam so as to preserve the existence of the Lake and the value to the community of the proposed transfer. The recent failure of dams and levees in the City of New Orleans, LA, and the catastrophic result, illuminates the need to assess the current condition of the dam and determine procedures to ensure its regular maintenance and preservation. While hurricanes are not a factor in Central Kentucky, tornadoes and torrential rain storms are and the right combination thereof could present a dangerous condition. At a minimum, the Commission, if it were to approve the Petition, should attach to its approval conditions designed to preserve the value to the public of the proposed transfer and the public safety.
3. By ordinance adopted by the Urban County Council on June 17, 2005, the Council acknowledged the presentation to it of citizen petitions containing a sufficient number of signatures of registered voters and directed the petitions to the Fayette County Clerk for the purpose of conducting a referendum election on the question of whether the Urban County Government should acquire the assets of Petitioner, including Jacobson Park and related real property. Copies of said ordinance and the transmittal letter to the Fayette County Clerk are attached to Bluegrass FLOW's motion to intervene. If the referendum election results in the adoption of an ordinance directing the acquisition of said assets, this Petition will become moot. Therefore, BGFLOW moves the Commission to postpone any hearings on the Petition until after November 8, 2005, the anticipated

date of the referendum election, or if a later date is order by the courts, until after such later date; or, alternatively, that if the Petition is approved prior thereto, that the Commission include as part thereof a condition that such an approval shall only be effective in the event of a defeat of the referendum election.

Respectively submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Public Comment was served by first class mail, postage prepaid, upon the following on this the 16th day of September, 2005.

Beth O'Donnell
Executive Director
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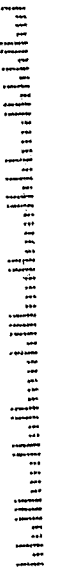


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SEP 17 2005



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