

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY-AMERICAN WATER COMPANY )  
\_\_\_\_\_) )  
ALLEGED FAILURE TO COMPLY WITH KRS ) CASE NO. 2007-00185  
278.300(1) )

ORDER

On May 16, 2007, the Commission directed Kentucky-American Water Company ("Kentucky-American") to show cause why it should not be penalized pursuant to KRS 278.990(1) for its alleged violation of KRS 278.300(1). The Commission's action followed notice of Kentucky-American's issuance of 10-year notes under an agreement with American Water Capital Corporation in excess of authorized amounts. Commission Staff and Kentucky-American have reached an agreement resolving this matter and have jointly submitted that agreement for Commission approval.

In reviewing this Settlement Agreement, the Commission has considered the circumstances surrounding the unauthorized issuance of evidence of indebtedness. The Commission finds that the Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.

2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.

3. Within 10 days of the date of this Order, Kentucky-American shall pay to the Commonwealth of Kentucky the sum of Two Thousand Two Hundred Fifty (\$2,250) Dollars. This payment shall be in the form of a cashier's or certified check made payable to "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to: Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

4. Subject to the filing of timely petition for rehearing pursuant to KRS 278.400, these proceedings are closed. The Executive Director shall place any future filings in the appropriate utility's general correspondence file or shall docket the filing as a new proceeding.

Done at Frankfort, Kentucky, this 22nd day of August, 2007.

By the Commission

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2007-00185 DATED August 22, 2007

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY-AMERICAN WATER COMPANY )  
\_\_\_\_\_) )  
ALLEGED FAILURE TO COMPLY WITH KRS ) CASE NO. 2007-00185  
278.300(1) )

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into on this 1<sup>st</sup> day of August, 2007, between Kentucky-American Water Company ("Kentucky-American") and the Staff of the Public Service Commission ("Commission Staff").

WITNESSETH:

WHEREAS, Kentucky-American, a corporation organized under the laws of Kentucky, owns and operates facilities that treat and distribute water to the public for compensation in Bourbon, Clark, Fayette, Gallatin, Grant, Harrison, Jessamine, Owen, Scott, and Woodford counties, Kentucky;

WHEREAS, Kentucky-American is a utility subject to Commission jurisdiction;

WHEREAS, KRS 278.300(1) provides that "[n]o utility shall issue any securities or evidences of indebtedness. . . until it has been authorized so to do by order of the [C]ommission;"

WHEREAS, on May 16, 2007, the Public Service Commission entered an Order establishing a formal proceeding to investigate alleged violations of KRS 278.300 and

directed Kentucky-American to show cause why it should not be subject to the penalties of KRS 2778.990(1) for these alleged violations;

WHEREAS, Kentucky-American and Commission Staff stipulate:

1. On July 21, 2000, the Commission approved Kentucky-American's entry into a financial services agreement with American Water Capital Corporation ("AWCC") and authorized it to issue, under the terms of this agreement, to AWCC notes or debentures not exceeding an aggregate amount of \$41.5 million prior to December 31, 2005.
2. In its Order of July 21, 2000, the Commission further ordered Kentucky-American to obtain prior Commission approval of any issuance of evidence of indebtedness not specifically identified in its application and included in the \$41.5 million amount.
3. On March 29, 2001, Kentucky-American issued a promissory note to AWCC for \$15.5 million for a 10-year term.
4. On June 12, 2002, Kentucky-American issued a promissory note to AWCC for \$24 million for a 5-year term.
5. On March 1, 2004, Kentucky-American issued a third promissory note in the amount of \$14 million for a 10-year term.
6. The total amount of these notes is \$53.5 million, or \$12.5 million more than the Commission authorized.
7. On March 9, 2007, Kentucky-American applied to the Commission for approval of its issuance on March 1, 2004 of a promissory note in the amount of \$14 million for a 10-year term to AWCC. On May 8, 2007, the Commission denied this application.
8. Kentucky-American's issuance of March 1, 2004 of a promissory note in the amount of \$14 million for a 10-year term was without prior Commission approval and is in violation of KRS 278.300(1).

WHEREAS, Kentucky-American and Commission Staff desire to settle the issues raised in this proceeding and have entered into this Settlement Agreement through compromise.

NOW, THEREFORE, Kentucky-American and Commission Staff agree that:

1. Within 10 days after the entry of an Order approving this Settlement Agreement, Kentucky-American shall pay to the Commonwealth of Kentucky the sum of Twenty-Two Hundred and Fifty (\$2,250) Dollars in satisfaction and resolution of all issues that involve Kentucky-American, its employees, and agents and that arise out of Kentucky-American's issuance of a promissory note in the amount of \$14 million on March 1, 2004. This payment shall be in the form of a cashier's or certified check made payable to "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to: Office of General Counsel, Public Service Commission of Kentucky, 211 Sower Boulevard, Frankfort, Kentucky 40602.

2. Nothing contained herein shall be construed as an admission of a willful violation of any statute or administrative regulation nor shall the Public Service Commission's acceptance of this agreement be construed as a finding of a willful violation of any statute or administrative regulation.

3. This Agreement is subject to the acceptance of and approval by the Public Service Commission.

4. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement

negotiations shall be binding on either signatory or be construed against either Kentucky-American or Commission Staff.

5. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

6. If the Commission accepts and adopts this Settlement Agreement in its entirety and enters an Order in this proceeding to that effect, Kentucky-American shall not apply for rehearing in this matter nor bring any action for judicial review of that Order.

IN WITNESS WHEREOF, Kentucky-American and Commission Staff have executed this Settlement Agreement the day and year first above written by and through their duly authorized attorneys.

STAFF OF PUBLIC SERVICE COMMISSION  
OF KENTUCKY

BY: 

TITLE: Asst. General Counsel

KENTUCKY-AMERICAN WATER COMPANY

BY: 

TITLE: President