

Commonwealth of Kentucky
Before the Public Service Commission

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PUBLIC SERVICE
COMMISSION

In the Matter of:

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

Case No. 2005-00214

ATTORNEY GENERAL'S RESPONSE TO
THE COMMISSION'S 11 AUGUST 2005 ORDER

The Attorney General tenders his response to the Commission's 11 August 2005 Order and provides the following comments.

Per the Orders of Case Numbers 2002-00018 and 2002-00317, Kentucky-American is under a requirement to obtain Commission approval prior to any transfer of control or ownership of the land upon which Jacobson Park is located. KAWC's Petition is for a transaction falling within the scope of that requirement.

In Case No. 2002-00018, the Commission notes its basis for the condition in stating, "Recognizing LFUCG's concerns about the future of Jacobson Park, we condition our approval of the proposed merger on KAWC's agreement that no transfer of ownership or control of Jacobson Park will occur without prior Commission approval."¹ Hence, the purpose of this requirement is the

¹ *In the Matter of: Application for Approval of the Transfer of Control of Kentucky-American Water Company to RWE Aktiengesellschaft and Thames Water Aqua Holdings GmbH*, Case No. 2002-00018, Order, 30 May 2002, page 25.

protection of the Lexington-Fayette Urban County Government's concerns in the control of the property.

In light of the fact that the transfer is from Kentucky-American to the Lexington-Fayette Urban County Government, which has no objection to the Petition, the transfer appears wholly consistent with the intent of the corresponding condition of approval, namely, the protection of LFUCG's concerns. Hence, the Attorney General does not object to the Petition.

The caveat that the Attorney General submits is that this Petition is for the Commission's approval of Kentucky-American's request to transfer control, and Commission's approval in and of itself will not constitute a declaration of the rights and duties of the parties for matters falling outside the scope of the Commission's authority. Thus, approval, if granted, will satisfy KAWC's PSC regulatory requirement. Issues, if any, outside the scope of the Commission's jurisdiction are for other forums.

WHEREFORE, the Attorney General submits his Response.

Respectfully submitted,

GREGORY D. STUMBO
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Certificate of Service and Filing

Counsel certifies filing of the original and ten photocopies of this Response by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; furthermore, service of the filing was by mailing a true and correct of the same, first class postage prepaid, to Hanly A. Ingram, Stoll, Keenon & Park, LLP, 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801; Lindsey W. Ingram, Jr., Stoll, Keenon & Park, LLP, 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801; Lexington-Fayette Urban County Government, Department of Law, 200 East Main Street, Lexington, Kentucky 40507; and Nick O. Rowe, Kentucky-American Water Company, 2300 Richmond Road, Lexington, Kentucky 40502 (with a courtesy photocopy to Foster Ockerman, Jr., Counsel for Bluegrass FLOW, Inc., at Martin, Ockerman & Brabant LLP, 200 North Upper Street, Lexington, Kentucky 40507), all on this 26th day of August 2005.

David Edward Speward
Assistant Attorney General