

RECEIVED

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

MAR 13 2008  
PUBLIC SERVICE  
COMMISSION

Application of Kentucky American Water )  
Company, a/k/a/ Kentucky American Water ) Case No.  
For a Certificate of Convenience and Necessity ) 2007-00134  
Authorizing construction of Kentucky River )  
Station II, Associated Facilities and )  
Transmission Line )

**RESPONSE TO LWC MOTION FOR CONFERENCE**

The Kentucky River Authority (KRA) believes the informal conference requested in the motion of Louisville Water Company (LWC) will be unproductive, and thus unnecessary, based on the lack of a specific proposal to deal with the matters raised in the motion. The issues that LWC lists as topics for the conference have all been thoroughly investigated, discussed and examined during the course of this proceeding. LWC has presented no additional details or commitments to implement its desire for a pipeline connecting with central Kentucky that would warrant discussion.

The first issue is the desirability for a publicly owned water utility to construct a pipeline to LWC's treatment facilities. Not only has LWC failed to provide any evidence that there is such an entity with the desire, ability and financing to construct a pipeline, the testimony of Kentucky American Water Company's (KAWC) witnesses discloses the illusory benefit of such a project. Nothing in LWC's motion suggests that it has any new, fully developed plan that would make this notion likely or even remotely possible.

Next, LWC proposes discussion of the feasibility and cost of interim supply measures. Mr. Heitzman's supplemental testimony provided a number of alternatives for this solution, however, all were shown to be unsubstantiated, unworkable or inadequate. Nothing in the motion indicates that the defects in his testimony have been overcome.

The final issue deals with the immediacy of the need for additional KAWC facilities. This issue has been addressed over at least the last ten years and will not be resolved by prolonging the decision in this matter with additional exploratory discussion about solutions to a problem that already has a well developed, finalized plan ready to implement.

As a last resort, LWC seeks to interject a mediator into the Commission's statutorily mandated review of this application. Nothing in KRS Chapter 278 allows for the Commission to delegate its function to a mediator. Not only would such an action violate the statutes, it would necessarily delay this case for months. All of the experts for each party have had the opportunity to review the work of the others. Extensive documentation of the KAWC plan, discovery, testimony and cross examination of the witnesses has proceeded for almost a year. Nothing in LWC's motion provides any new information or adds substance to the many iterations of its ideas for supplying water to central Kentucky.

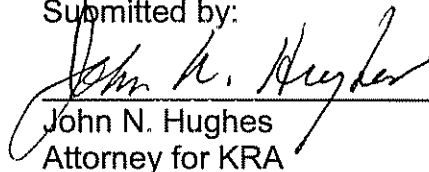
The Commission has previously addressed LWC's effort to interject mediation into the process. In its order of November 26, 2007 responding to a prior motion of LWC for a conference, the Commission said that the "current proceeding is not well adapted for 'administrative mediation'". The order points

out that only KAWC has a proposal to be reviewed. There are not two parties presenting competing proposals. Only KAWC is before the Commission with an application for a certificate to construct and as the Order explicitly states, LWC has no direct or immediate interest in the KAWC application. Because this is a matter of proof by KAWC to show the need for, the public interest in, and the benefit of the project, there is nothing to mediate.

While the KRA will certainly participate in any discussions that might lead to the most reasonable solution to the water supply issues addressed in this case, the motion by LWC does not provide a framework to further those discussions, but only offers a continuation of the exploration of hopeful generalities.

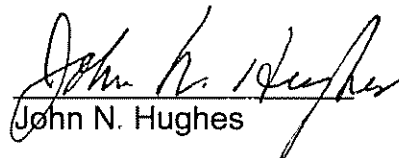
The benefits suggested by the motion should be carefully weighed against the case record and the potential for unwarranted delay. KRA believes that justification for a Commission ordered settlement conference has not been provided by LWC, but should a conference be conducted, it should not delay the filing of briefs or the issuance of the order.

Submitted by:

  
\_\_\_\_\_  
John N. Hughes  
Attorney for KRA

CERTIFICATE OF SERVICE

I certify that a copy of this Response was served on the parties listed below by first class mail the 13<sup>th</sup> day of March, 2008.

  
\_\_\_\_\_  
John N. Hughes

David Barberie  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington, KY 40502

Damon R Talley  
P.O. Box 150  
Hodgenville, KY 42748-0150

David F Boehm  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OH 45202

Thomas J FitzGerald  
Kentucky Resources Council, Inc.  
Post Office Box 1070  
Frankfort, KY 40602

Lindsey W Ingram, Jr.  
STOLL KEENON OGDEN PLLC  
300 West Vine Street  
Suite 2100  
Lexington, KY 40507-1801

Michael L Kurtz  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OH 45202  
John E Selent  
Dinsmore & Shohl, LLP  
1400 PNC Plaza  
500 West Jefferson Street  
Louisville, KY 40202

David Edward Spenard  
Office of the Attorney  
1024 Capital Center Drive  
Suite 200  
Frankfort, KY 40601-8204

A. W. Turner, Jr.  
Kentucky-American Water Company  
2300 Richmond Road  
Lexington, KY 40502

Lindsey W Ingram, III  
STOLL KEENON OGDEN PLLC  
300 West Vine Street  
Suite 2100  
Lexington, KY 40507-1801