

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

Kentucky-American Water Company (“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. It is a utility subject to Commission jurisdiction.¹

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.”

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 We further ordered Kentucky-American to obtain prior Commission approval of any

¹ KRS 278.010(3)(d).

² Case No. 2000-00189, The Application of Kentucky-American Water Company for Approval of Participation in the Borrowing Program (Ky. PSC July 21, 2000) at 2-3.

issuance of evidence of indebtedness not specifically identified in its application and included in the \$41.5 million amount.

In a recent proceeding, Kentucky-American advised this Commission of the issuance of three promissory notes to AWCC under the auspices of the Financial Services Agreement.³ On March 29, 2001, Kentucky-American issued a promissory note to AWCC for \$15.5 million for a 10-year term. On June 12, 2002, it issued a promissory note to AWCC for \$24 million for a 5-year term. On March 1, 2004, it issued a third promissory note in the amount of \$14 million for a 10-year term. The total amount of these notes is \$53.5 million, or \$12.5 million more than the Commission authorized.⁴

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.⁵

Based upon our review of the records of Cases No. 2000-00189, No. 2006-00418, and No. 2007-00104, the Commission finds that prima facie evidence exists that Kentucky-American failed to comply with KRS 278.300(1) when it issued its promissory note for \$14 million to AWCC on March 1, 2004.

³ Case No. 2006-00418, Application of Kentucky-American Water Company for Continued Participation with American Water Capital Corp. (Ky. PSC filed Aug. 28, 2006).

⁴ Case No. 2006-00418, Kentucky-American's Response to Commission Staff's First Information Request, Item 1.

⁵ Case No. 2007-00104, Application of Kentucky-American Water Company for Approval of Debt Issuance (Ky. PSC May 9, 2007).

The Commission, on its own motion, HEREBY ORDERS that:

1. Kentucky-American shall appear before the Commission on June 28, 2007, at 9:30 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, to present evidence on its alleged failure to comply with KRS 278.300(1) and to show cause why it should not be penalized, pursuant to KRS 278.990(1) for this alleged failure.

2. Within 20 days of the date of this Order, Kentucky-American shall file with the Commission a written response to the allegations set forth in this Order.

3. The records of Cases No. 2000-00189, No. 2006-00418, and No. 2007-00104 are incorporated by reference into the record of this proceeding.

4. Any party wishing an informal conference with Commission Staff shall file a motion for such conference within 20 days of the date of this Order.

Done at Frankfort, Kentucky, this 16th day of May, 2007.

By the Commission

ATTEST:



Executive Director

Case No. 2007-00185