

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE FEASIBILITY           )  
AND ADVISABILITY OF KENTUCKY-AMERICAN       )  
WATER COMPANY'S PROPOSED SOLUTION           )  
TO ITS WATER SUPPLY DEFICIT                       )  
Case No. 2001-00117

ATTORNEY GENERAL'S WRITTEN COMMENTS  
FOR THE COMMISSION'S 14 FEBRUARY 2005 ORDER

The Attorney General submits his Written Comments for the Commission's 14 February 2005 Order.

**1. The current estimate of the size of Kentucky-American's water supply deficit as of 2020.**

It appears that it has been several years since Kentucky-American has conducted a rigorous analysis of its water supply deficit for 2020. Moreover, as KAWC implicitly recognizes in its 8 November 2004 report,<sup>1</sup> given the reasonable planning horizon of 20 years for this type of analysis, the more relevant target date is now 2025.

Kentucky-American mentions that revisions were supposed to be made to the Kentucky River planning model to reflect additional data from the 1999 drought.<sup>2</sup> This is particularly important because, as KAWC states: "the Kentucky River did not behave in 1999 as the model predicted."<sup>3</sup> That work apparently

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<sup>1</sup> See KAWC 8 November 2004 Source of Supply Report (Source of Supply Report), pages 23 and 24.

<sup>2</sup> Source of Supply Report, page 15.

<sup>3</sup> Source of Supply Report, page 15.

has not been completed. Kentucky-American indicates that the model was updated but not converted to software that would “allow for easier adjustments and real-time use.”<sup>4</sup>

Neither the Attorney General nor any of the other parties to the original proceeding before this Commission have had the opportunity to review the changes to the model or the impact of those changes on deficit projections for 2020 or 2025. The Attorney General, therefore, cannot render an opinion as to the reasonableness of Kentucky-American’s current estimate of the size of its water supply deficit as of 2020 or any other time period.

Moreover, the Attorney General has an on-going concern that Kentucky-American’s deficit predictions assume only a very slight level of conservation on the part of KAWC or its customers.<sup>5</sup> Thus, even assuming that the river model was providing accurate predictions of available water supply, there would remain a serious question about KAWC’s demand projections. In short, Kentucky-American’s demand projections assume essentially no conservation or restrictions, even in the face of a hypothetical, 100-year drought.

The combination of unrealistic demand projections in tandem with an inability to test the efficacy of the model that was used to develop supply projections renders the Attorney General unable to offer an opinion about the accuracy of KAWC’s projected water supply deficits as of 2020 or 2025. These

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<sup>4</sup> Source of Supply Report, page 25.

<sup>5</sup> KAWC states that its “drought average day demand” includes just a “5% reduction” as a result of “voluntary odd/even watering during drought.” Source of Supply Report, page 21.

matters should be explored in greater detail before the Commission authorizes Kentucky-American to make a substantial investment in, or commitment to, any project to resolve whatever deficit may exist.

**2. The Bluegrass Water Supply Commission's ("BWSC") role in resolving Kentucky-American's water supply deficit.**

The Attorney General strongly supports the BWSC's regional planning effort. The Attorney General is concerned, however, that this regional planning effort must be based on the best available information of both water supply and demand within the Kentucky River basin. Presently, the Attorney General cannot say whether the BWSC's planning process (namely its supply and demand projections) are based upon sound information.

Nevertheless, the Attorney General strongly supports the regional planning efforts of BWSC and encourages that group to continue to work toward a cooperative, regional solution to central Kentucky's water supply concerns. The Attorney General believes that this type of regional planning effort is vastly superior to the "go it alone" approach that Kentucky-American exhibited during the early phases of this proceeding.

**3. Kentucky-American's planned involvement with the BWSC.**

The Attorney General strongly supports Kentucky-American's involvement with BWSC, so long as BWSC continues to make reasonable progress toward developing and implementing a reasonable, long-term water supply plan for central Kentucky. The Attorney General is concerned that,

according to KAWC's report, BWSC members have not made the requisite commitments (even non-binding commitments) to a centralized treatment plant.

As it becomes necessary to begin implementing the centralized plan, Kentucky-American should ensure that appropriate commitments are being made by all members of BWSC. If the necessary level of commitment to a regional solution does not materialize, then KAWC should be prepared to consider unilateral actions to ensure the provision of safe and reliable service to Kentucky-American's customers. Of course, if it appears that such actions might be necessary, Kentucky-American should so inform the Commission and the parties to this proceeding.

#### **4. The feasibility and adequacy of the BWSC's proposed solution.**

The Attorney General does not have the necessary information to determine the feasibility or adequacy of BWSC's proposed solution. The Attorney General has not been able to test the studies that were used to develop either the proposed 45 MGD treatment plant or the proposed grid network of more than 110 miles of pipe throughout the central Kentucky region.<sup>6</sup>

The Attorney General does not know if the siting and construction of a new treatment plant and an extensive pipe network is either feasible or cost effective. In addition to construction costs, it is very important for BWSC and Kentucky-American to consider on-going costs, such as pumping, operations,

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<sup>6</sup> Source of Supply Report, page 33.

maintenance, treatment, and repairs. Once again, the Attorney General has not seen, let alone evaluated, any such studies.

The Attorney General also does not know if appropriate studies have been conducted to determine the compatibility of water from a new treatment plant with water that is being produced currently by BWSC members. If water from multiple sources is to be mixed, as might happen in the type of regional network proposed, then detailed studies must be conducted to ensure that the treatment processes used by the various water supply entities are compatible with one another. This is important because, unlike many other regional water supply projects around the country, this project proposes to mix water from existing sources with water from a new treatment plant.

In concept, the Attorney General supports the general idea of constructing a single, centralized water treatment plant and distributing water from that central point throughout the region, so long as it is feasible and cost effective. The Attorney General has not had an opportunity, however, to review the actual plans being developed by BWSC to determine if the project is, in fact, feasible and adequate to meet the needs of Kentucky-American's service area.

- 5. Whether this proceeding should be suspended for a period of one year to permit the BWSC adequate time to pursue its organizational, planning, and funding efforts to resolve the water supply deficit in central Kentucky or, in the alternative, be closed with directions that Kentucky-American submit periodic reports on the efforts of the BWSC.**

The Attorney General supports the suspension of this proceeding for up to one year to allow the work of BWSC to continue. This proceeding should remain

open so that the Commission can continue to exercise oversight of Kentucky-American's long-term water supply planning process. The Attorney General recommends that the Commission require KAWC to file a status report in approximately one year (perhaps by 28 February 2006), so that the Commission and the parties are kept abreast of significant changes and developments in Kentucky-American's work with the BWSC.

In addition, the Commission should require KAWC to immediately report to the Commission and the parties if there is a significant change in BWSC's progress toward designing and implementing a regional water supply project (for example, if key members were to withdraw from BWSC, etc.).

The Attorney General asks that the Commission keep this proceeding open. It is important for the Commission and the parties to continue to monitor Kentucky-American's progress toward identifying and resolving its long-term water supply concerns in a formal proceeding.

Respectfully submitted,

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*Notice of Filing*

Counsel gives notice that (pursuant to Instruction 4(a) of the Commission's 15 May 2001, Order of procedure) the original and three copies in paper medium have been filed by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601. Further, one copy in electronic medium has been filed by uploading the filing to the file transfer protocol site designated by the Executive Director all on this 28<sup>th</sup> day of March 2005.

  
Assistant Attorney General

*Instruction 10 Certification*

Per Instruction 10 of the Commission's 15 May 2001, Order of procedure, counsel certifies that the electronic version is a true and accurate copy of the document filed in paper medium, the electronic version has been transmitted to the Commission, and the Commission and other parties have been notified by electronic mail (on 28 March 2005) that the electronic version has been transmitted to the Commission.

  
Assistant Attorney General

*Certificate of Service*

Counsel certifies that this response has been served by mailing a true and correct copy of the same, first class postage prepaid, to Roy W. Mundy II, Kentucky-American Water Company, 2300 Richmond Road, Lexington, Kentucky 40502; Lindsey W. Ingram Jr., Stoll, Keenon & Park, LLP, 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801; Joe F. Childers, 201 West Short Street, Suite 310, Lexington, Kentucky 40507; Phillip J. Shepherd, P. O. Box 782, Frankfort, Kentucky 40602; Gerald J. Edelen, Department of the Army, Corps of Engineers, P. O. Box 59, Louisville, Kentucky 40201; Libby Jones, P. O. Box 487, Midway, Kentucky 40347; Damon R. Talley, P. O. Box 150, Hodgenville, Kentucky 42748-0150; Robert M. Watt, III, Stoll, Keenon & Park, LLP, 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801; David F. Boehm, Boehm, Kurtz & Lowry, 36 East Seventh Street, Suite 2110, Cincinnati, Ohio, 45202; Don R. Hassall, Bluegrass Water Supply Consortium, c/o Bluegrass ADD, 699 Perimeter Drive, Lexington, Kentucky 40517-4120; Anthony G. Martin, P. O. Box 1812, Lexington, Kentucky 40588; and David Barberie, Lexington-Fayette Urban County Government, Department of Law, 200 East Main Street, Lexington, Kentucky 40507 all on this 28<sup>th</sup> day of March 2005.

*[Signature]*  
Assistant Attorney General