

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| AN INVESTIGATION INTO THE FEASIBILITY AND |) | |
| ADVISABILITY OF KENTUCKY-AMERICAN WATER |) | CASE NO. 2001-117 |
| COMPANY'S PROPOSED SOLUTION TO ITS WATER |) | |
| SUPPLY DEFICIT |) | |

O R D E R

On May 15, 2001, the Commission initiated this proceeding to investigate the feasibility and advisability of Kentucky-American Water Company's ("Kentucky-American") proposed solution to its water supply deficit. To afford all parties a meaningful opportunity to participate in this proceeding and to ensure public confidence in our efforts, we now present a general outline of our investigation and publish for comment a proposed procedural schedule.

Given the complexity of the issues, the Commission is of the opinion that our investigation should be divided into two phases. In the first phase, the Commission, through our Staff, will gather evidence regarding the measures necessary to enable the Kentucky River to adequately supply the total requirements of Kentucky-American's customers in 2020, the cost and likelihood of implementing these measures in a timely fashion, and Kentucky-American's ability to meet its short-term deficit. As part of this effort, the Commission will direct the parties to respond to interrogatories and requests

for production of documents¹ and will, to the extent that the law permits, gather documents from non-parties.² We will also take the depositions of persons who have knowledge of key issues. Upon completing these efforts, we will issue preliminary findings of fact and conclusions of law and permit the parties to comment upon them. Using the parties' comments, the Commission will then identify the issues in dispute.

In the second phase of this proceeding, the Commission will hold an evidentiary hearing on the disputed issues. The parties will be permitted to conduct discovery and to present written testimony. An evidentiary hearing will be conducted for the purpose of cross-examining witnesses who have submitted written testimony. Upon the conclusion of this hearing and the submission of written briefs, the Commission will issue its final findings of fact and conclusions of law on the feasibility of the Kentucky River supplying the total requirements of Kentucky-American's customers in 2020.

The Commission acknowledges the request of the Bluegrass Area Development District that we refrain from directing Kentucky-American to take any action to resolve its water supply deficit until the Bluegrass Water Supply Consortium completes its study of

¹ In our Order of May 15, 2001, we directed Kentucky-American to provide certain information regarding its proposed solution and other potential solutions to its water supply deficit. Kentucky-American filed this information with the Commission on June 15, 2001.

² Pursuant to KRS 61.872, the Commission requested the documents from the Natural Resources and Environmental Protection Cabinet, the Kentucky River Authority, and Lexington-Fayette Urban County Government. Pursuant to 5 U.S.C. § 522, we also inspected and requested documents from the United States Army Corps of Engineers. The Commission is reviewing these documents and will file them in the record upon the completion of its review. An electronic version of these documents will be provided to the parties at the time of filing.

a regional solution that would involve several public and municipal utilities.³ We encourage the Bluegrass Water Supply Consortium's efforts and trust that our investigation will neither impede nor frustrate those efforts. Should the evidence reveal that Kentucky-American's stated solution to its supply deficits is unfeasible, further proceedings will be required. In such proceedings, the findings of the Bluegrass Water Supply Consortium's study will be carefully considered.

We have appended to this Order the proposed schedule for completing our investigation, and we invite the parties to comment. Upon receipt and consideration of these comments, we will issue a final procedural schedule.

Since the initiation of this proceeding, the Attorney General ("AG") has moved to expand the scope of this proceeding to include consideration of Kentucky-American's business development planning and activities and to define the Commission's expectations concerning Kentucky-American's regionalization efforts. To the extent that Kentucky-American's business development planning and activities will greatly affect its water supply requirements, we find that this issue is relevant and should be considered during the course of this proceeding. We are not convinced, however, that this proceeding should serve as a vehicle for defining Commission policy toward water regionalization. Accordingly, we decline to extend the scope of this proceeding to include that issue.

³ Letter from Jas S. Sekhom, Executive Director, Bluegrass Area Development District, and Don R. Hassall, Assistant Executive Director, Bluegrass Area Development District, to Thomas Dorman, Executive Director, Public Service Commission, of August 14, 2001.

IT IS THEREFORE ORDERED that:

1. Parties shall have 20 days from the date of this Order to submit comments upon the proposed procedural schedule set forth in Appendix A.
2. The AG's Motion to Enlarge Investigation is granted in part and denied in part.
3. The scope of this proceeding is expanded to consider Kentucky-American's business development planning and activities and their effect upon Kentucky-American's source of supply deficit.

Done at Frankfort, Kentucky, this 26th day of September, 2001.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2001-117 DATED September 26, 2001

PROPOSED PROCEDURAL SCHEDULE

Issuance of preliminary findings of fact and conclusions of law..... 01/04/2002

Parties may file comments on and objections to preliminary
findings of fact 01/11/2002

Publication of list of contested issues upon which an evidentiary
hearing will be conducted 01/18/2002

Each party may serve interrogatories and requests for
production of documents upon other parties..... 01/25/2002

Parties shall file with the Commission and serve upon all parties of
record responses to interrogatories and requests for production of
documents no later than 02/01/2002

Each party may file written testimony in verified form no later than 02/08/2002

Each party may serve interrogatories and requests for
production of documents upon parties filing written testimony
no later than..... 02/15/2002

Parties shall file with the Commission and serve upon all parties of
record responses to interrogatories and requests for production of
documents no later than 02/22/2002

Parties may file written rebuttal testimony in verified form
with the Commission and serve upon all parties of record
no later than..... 03/01/2002

Each party may serve interrogatories and requests for
production of documents upon parties filing written rebuttal testimony
no later than..... 03/08/2002

Parties shall file with the Commission and serve upon all parties of
record responses to interrogatories and requests for production of
documents no later than 03/15/2002

Public hearing for the purpose of
cross-examination of witnesses.....03/26/2002

Parties may file written briefs with the Commission
no later than04/26/2002