

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT PETITION OF KENTUCKY-AMERICAN	]	
WATER COMPANY, THAMES WATER AQUA	]	
HOLDINGS GmbH, RWE AKTIENGESELLSCHAFT	]	Case No. 2002-00317
THAMES WATER AQUA US HOLDINGS, INC.,	]	
APOLLO ACQUISITION COMPANY, AND AMERICAN	]	
WATER WORKS COMPANY, INC. FOR APPROVAL	]	
OF A CHANGE OF CONTROL OF KENTUCKY-	]	
AMERICAN WATER COMPANY	]	

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MOTION OF BLUEGRASS FLOW, INC.  
FOR PRODUCTION OF DOCUMENTS,  
AND FOR ENLARGEMENT OF TIME  
OR IN THE ALTERNATIVE  
TO STRIKE PORTIONS OF THE RECORD

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Comes Bluegrass FLOW, Inc. ("BGFlow"), and moves the Commission for an order directing Joint Applicants to provide BGFlow with those documents and other filings brought forward and incorporated into this case from Case No. 2002-00018 which have not been heretofore served on BGFlow, and for an enlargement of time in this case for such production to occur and a reasonable time thereafter in which to review said documents before a revised date for first service of interrogatories and requests for production of documents, or in the alternative to strike portions of the record herein, and in support thereof states as follows:

BGFlow was granted full intervention in prior case No. 2002-00018 after significant documentation had been produced and answers to interrogatories filed; however, no copy of any such pre-intervention filings were ever served on BGFlow.

In the ordinary course, BGFlow having been granted full intervention in this instant case, it would be served with all filings. However, the Commission has ordered that the record of No. 2002-00018 be incorporated herein by reference (Order, 16 September 2002). While commendable efficiency and conservation of resources is thereby achieved, a side effect is to deprive BGFlow of all portions of the record created prior to its intervention.

Counsel thought an understanding and agreement had been reached at the Informal Conference herein held September 11, 2002, that the parties would provide copies of such pre-intervention filings to BGFlow; however, according to email from counsel from Joint Applicants, BGFlow will have to either purchase copies from the Joint Applicants counsel or expend its own resources in downloading and printing at least eighteen (18) filings of unknown volume.

Counsel is unaware of any rule or order requiring parties who are to receive pleadings to pay for them. The Commission's Order of 16 September 2002 requires any document or pleading filed, including those filed electronically, to be served on all parties in paper medium. (Paragraph 17) BGFlow requests the Commission order that those documents, pleadings and other filings which are deemed filed in this case under the Commission's incorporation Order and which had not previously been served on BGFlow now be served on its counsel without cost to BGFlow. Such a request is reasonable and fair and, in fact, the procedure which would have been followed absent the incorporation Order. In the absence thereof, BGFlow is denied substantive due process and is put to a disadvantage

in this case.

BGFlow further requests an enlargement of time for the production to occur and a reasonable time to review the produced documents before the first deadline date for request for documents and interrogatories herein so that duplication and repetition can be avoided as much as possible. BGFlow realizes that this will require a revision to Exhibit A to the Order of 16 September 2002; but the extension of time is occasioned by the refusal to make such documents timely available to BGFlow.

In the alternative, substantive due process requires that all portions of the record in Case No. 2002-00018 filed prior to the Order granting intervention to BGFlow and not served on counsel for BGFlow in either Case No. 2002-00018 or this case be stricken from the record incorporated by reference herein, with leave, of course, to file and serve under the Commission's Order, and BGFlow so moves.

Respectfully submitted,

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NOTICE AND CERTIFICATE OF SERVICE

Counsel gives notice that the original and three copies of this document have been filed with the Public Service Commission by sending same by first class mail, postage prepaid, to Mr. Thomas M. Dorman, Executive Director, Public Service Commission, 211 Sower Blvd., Frankfort, KY 40611, by uploading this document (together with the required Index and Read1st documents) to the file transfer protocol site designated by the Executive Director, and by service of a hardcopy of same upon the individuals listed below on this the 20<sup>th</sup> day of September, 2002. Counsel also certifies that the electronic version has been transferred to the Commission, and the Commission and other parties have been notified by electronic mail that the electronic version has been transmitted to the Commission.

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