

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 ENLARGEMENT OF TIME  
TO FILE EXPERT WITNESS TESTIMONY

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Comes Bluegrass FLOW, Inc. (“BGFlow”), and moves the Commission for an enlargement of time in which to prefile testimony of expert witness(es) with regard to matters within the scope of hearing as defined in the Order of October 16, 2002, and a corresponding revision to the Scheduling Order herein, for a period of time of thirty (30) days from the date of this Motion.<sup>1</sup>

In support whereof, BGFlow states:

1. Unlike the other parties to this matter, which were parties to Case No. 2002-00018, BGFlow has not had a full opportunity to present witnesses in either the prior case or this one. BGFlow was granted intervention in Case No. 2002-00018 by Order dated April 18, 2002, which it received on

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<sup>1</sup> BGFlow does not waive its argument that the Commission has no jurisdiction to hold any hearing pending the appeal of Case No. 2002-00018 to the Franklin Circuit Court, nor does it waive any objection to the limitation of the scope of the hearing as done; and further reserves all other objections and arguments.

or about Monday, April 22,, 2002. Pursuant to the scheduling Order therein, prefiled witness testimony was to be filed on April 26, 2002. As a practical matter, with only four days available, BGFlow had no real opportunity to identify a witness, obtain, prepare and file testimony. In contrast, the other parties had over eighty (80) days in which to secure and file testimony in that case.

2. In the instant matter, prefiled testimony was scheduled to be filed only thirty-two (32) days from the date of the filing of the Joint Petition herein.
3. BGFlow was prepared to prefile expert witness testimony by the October 18, 2002, date with regard to certain matters; however, the subject matter of that testimony now appears to fall outside the scope of hearing under the terms of the October 16<sup>th</sup> Order, and will not presented pursuant thereto.<sup>2</sup>
4. BGFlow has also been pursuing, but given the other demands of the truncated schedule in this case, has not been able to prepare, testimony on other matters which are within the scope of hearing as defined in said Order. In particular, it is anticipated that the testimony will pertain to the status of TWUS as a United States domestic corporation in which there is or is to be foreign investment and ownership as otherwise described in documents submitted herein with regard to certain laws and treaties and

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<sup>2</sup> BGFlow reserves the right to file such testimony and call such witness in the future, if appropriate.

the application thereof.<sup>3</sup>

5. An enlargement of the calendar herein by thirty days will not work any hardship on the Joint Applicants or the Commission, and is likely to result in the presentation of issues and development of facts to assist Commission in fully considering the matter.
6. However, the denial of time to BGFlow correspondent to the time allowed to other parties herein works a denial of substantive and procedural due process to BGFlow, substantially impairs its ability to prepare its case herein, and will result in irreparable injury to its the public interest.

Wherefore, BGFlow requests an enlargement of the calendar in this matter to provide for the prefiling of testimony by the Intervenors, and specifically BGFlow, on or before November 18, 2002, and a corresponding revision of the remainder of the schedule herein.

Respectfully submitted,  
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#### NOTICE AND CERTIFICATE OF SERVICE

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<sup>3</sup> Counsel hastens to assure the Joint Petitioners, and the Commission, that it is neither anticipated nor intended that any portion of the expected testimony will address the issue of local ownership.

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 18<sup>th</sup> day of October, 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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