

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)	
AKTIENSGESELLSCHAFT, THAMES WATER)	
AQUA US HOLDINGS, INC., APOLLO)	CASE NO. 2002-00317
ACQUISITION COMPANY AND AMERICAN)	
WATER WORKS COMPANY, INC. FOR)	
APPROVAL OF A CHANGE OF CONTROL OF)	
KENTUCKY-AMERICAN WATER COMPANY)	

ORDER

Bluegrass FLOW, Inc. (“Bluegrass FLOW”) has moved for an enlargement of time in which to submit the testimony of its witnesses in this matter. The Joint Applicants have submitted a response in opposition to the motion. Having considered the motion and response thereto, we reluctantly grant the motion.

On September 16, 2002, the Commission established a procedural schedule in this matter. This schedule, while providing an adequate opportunity for all parties to conduct discovery and to submit written testimony, would also have permitted us to complete our review of the Joint Application within 60 days as KRS 278.020(5) requires. At the outset of this proceeding and at the time of the issuance of our procedural schedule, a dispute existed between the parties over the scope of this proceeding. More specifically, the Joint Applicants argued that the scope of this proceeding is limited as a matter of law to the ability of Thames Water Aqua US Holdings, Inc. (“TWUS”) to provide reasonable utility service and to the question of whether the proposed transfer

of control to TWUS is in the public interest. On October 16, 2002, after carefully considering the arguments of all parties and after all discovery upon the Joint Applicants had concluded, we issued an Order in which we concurred with the Joint Applicants' position.

Bluegrass FLOW argues that the late issuance of our decision regarding the scope of this proceeding has worked a hardship on its efforts to prepare testimony. It argues that its efforts to develop testimony concentrated upon areas that are now outside the scope of this proceeding and that additional time is required to develop testimony on the issues within the proper scope of this proceeding. It further argues that it is disadvantaged by its late intervention in the previous proceeding regarding the proposed transfer of control of Kentucky-American Water Company.¹ Finally, it asserts that without additional time to prepare its testimony, it will suffer a denial of its substantive and procedural due process rights that the Federal Constitution affords it.

We find little in the present record to support Bluegrass FLOW's claims of hardship or deprivation. Bluegrass FLOW was fully aware of the dispute over the scope of this proceeding. A prudent and reasonable course of action would have been to prepare testimony that addressed all issues. As to the length of time to prepare testimony, we note that the time allotted to intervenors to prepare testimony is consistent with that allotted in other transfer of control proceedings.

Nonetheless, the Commission recognizes the importance of the issues in this proceeding to the central Kentucky region. We wish to ensure that all parties have an

¹ Case No. 2002-00018, Application for Approval of the Transfer of Control of Kentucky-American Water Company to RWE Aktiengesellschaft and Thames Water Aqua Holdings GmbH (Ky.PSC May 30, 2002).

adequate opportunity to present evidence. Accordingly, we find that Bluegrass FLOW should be permitted additional time to submit its testimony. We further find that good cause exists to extend the statutory period for reviewing the Joint Application to 100 days.

IT IS THEREFORE ORDERED that:

1. Bluegrass FLOW's Motion for Enlargement of Time is granted in part and denied in part.
2. The procedural schedule appended to the Commission's Order of September 16, 2002 is replaced with the schedule appended to this Order.
3. The statutory time period for review of the Joint Applicants' Application is extended to 100 days or December 20, 2002.

Done at Frankfort, Kentucky, this 23rd day of October, 2002.

By the Commission

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2002-00317 DATED October 23, 2002

- Intervenors shall file the testimony of their witnesses
in verified written form no later than 11/07/2002
- Applicants and Commission Staff may serve interrogatories
and requests for production of documents upon Intervenors
no later than..... 11/14/2002
- Last day for Applicants to publish notice of hearing date..... 11/14/2002
- Intervenors shall file with the Commission
and serve upon all parties of record responses to interrogatories
and requests for production of documents no later than 11/18/2002
- Public Hearing shall begin at 9:00 a.m., Eastern
Standard Time, in Hearing Room 1 of the Commission's
offices at 211 Sower Boulevard, Frankfort, Kentucky,
for the purpose of cross-examination of witnesses..... 11/21/2002
- Briefs, if any, shall be filed no later than 12/05/2002