

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF:** )  
 )  
**NOTICE OF ADJUSTMENT OF THE RATES OF** ) **CASE NO. 2004-00103**  
**KENTUCKY-AMERICAN WATER COMPANY** )  
**EFFECTIVE ON AND AFTER MAY 30, 2004** )

**KENTUCKY-AMERICAN WATER COMPANY'S  
RESPONSE TO THE ATTORNEY GENERAL'S MOTION  
TO COMPEL COMPLETE ANSWERS TO THREE  
QUESTIONS IN HIS REQUEST FOR INFORMATION**

Kentucky-American Water Company ("Kentucky American Water") opposes the July 16, 2004 Motion to Compel Complete Answers filed by the Attorney General of the Commonwealth of Kentucky ("Attorney General"). As set forth below, the Attorney General's Motion should be denied because the information sought to be compelled has no bearing on this rate proceeding and is therefore irrelevant and immaterial. Accordingly, Kentucky American Water's objections to three data requests that are the subject of the Attorney General's Motion should be sustained.

AG Request 144

This request seeks, for each of the past five years: a list of companies that have filed a consolidated tax return with Kentucky American Water; the taxable income or tax loss incurred by each of those companies; and an identification of which of those companies are regulated utilities. Kentucky American Water objected to this data request on the basis that it seeks irrelevant and immaterial information.

In his Motion to Compel, the Attorney General focuses on the fact that, in the change of control proceedings, Kentucky American Water asserted that the ability to file a consolidated tax return would reduce administrative expense for the entity filing the return, Thames Water Aqua

US Holdings, Inc. (“TWUS”). Thus, his argument goes, he should be allowed to discover information relating to consolidated tax returns. But the Attorney General is in error when he claims that this information is well within the bounds of legitimate discovery. While it is true that the ability to file a consolidated tax return should reduce administrative expense for TWUS, there is no direct financial benefit for Kentucky American Water. The reduction in administrative expense for TWUS has no relevance whatsoever to the financial information about sister companies. Indeed, the financial status and/or situation of any sister company of Kentucky American Water has no impact on the rates that Kentucky American Water charges. The potential recognition of losses that might otherwise go unrecognized as a result of the use of TWUS is a benefit to TWUS only. That is clear from the next sentence in the order quoted by the Attorney General<sup>1</sup>: “Thames could recognize for tax purposes losses of some U.S. affiliates that otherwise might not have been recognized.” Therefore, Kentucky American Water’s objection to this request should be sustained.

#### AG Request 158

This request seeks an identification of all entities to whom Kentucky American Water has made a presentation concerning outsourcing of management, contract operations, partnerships, transfer of assets, merger, or any other form of consolidation or change in control. The request also seeks a copy of all correspondence and meeting materials relating to such presentations. Kentucky American Water objected to this request on the basis that the requested information is irrelevant and immaterial because there are no investments, revenues or expenses in this rate request that are related in any way to any effort by Kentucky American Water to establish any sort of relationship with any entity.

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<sup>1</sup> Order, December 20, 2002, Case No. 2002-00317, page 8.

Simply stated, Kentucky American Water has not requested anything in its rate request that stems from or is related to the kind of “presentation” that is the subject of this request. Thus, the Attorney General’s purported concern that Kentucky American Water is reasonably allocating its regulated activities with any non-regulated activities is misplaced. The requested information has no bearing on this rate proceeding and Kentucky American Water’s objection should be sustained.

AG Request 176


This request seeks a copy of Kentucky American Water’s current strategic business plan. The request references Kentucky American Water’s Exhibit 25 to its Application which contains a financial forecast of Kentucky American Water’s sales for 2004 – 2006. That forecast was derived from Kentucky American Water’s current strategic plan, as noted in Exhibit 25 to Kentucky American Water’s Application. Kentucky American Water objected to providing a copy of the current strategic business plan on the basis that the information within the plan that is related to this rate proceeding — forecasted water sales — was provided in Exhibit 25. Thus, the aspects of the plan that have relevance to this case have been incorporated into the case. The remainder of the information in the plan has no bearing on this rate proceeding which is based on a forecasted test year ending on November 30, 2005.

In his Motion to Compel, the Attorney General incorrectly argues that there “is no issue as to the relevance of the business plan information” and he claims that information beyond November 2005 will assist in testing the reasonableness of Kentucky American Water’s “positions and proposals.” But information beyond November 2005 in the business plan has nothing to do with Kentucky American Water’s “positions and proposals” in this case which is based on a forecasted test year ending in November 2005. The ultimate question before the

Commission is whether to accept Kentucky American Water's proposed rates based on the forecasted test year. The business plan information relating to that issue has already been provided. Any other information is irrelevant and, therefore, Kentucky American Water's objection to this request must be sustained.

For the reasons set forth above, the Attorney General's Motion to Compel must be denied.

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**CERTIFICATION**

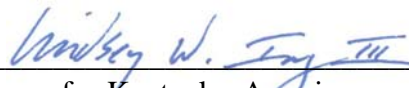
This is to certify that a true and accurate copy of the foregoing has been electronically transmitted to the Public Service Commission; that the Public Service Commission and other parties participating by electronic means have been notified of such electronic transmission; that, on July 26, 2004, the original and one (1) copy in paper medium will be delivered to the Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; and that on July 26, 2004, one (1) copy in paper medium will be delivered to the following via U.S. Mail:

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