


COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:)
ADJUSTMENT OF THE RATES OF) Case No. 2004-00103
KENTUCKY-AMERICAN WATER COMPANY)

REPLY BRIEF OF THE ATTORNEY GENERAL

GREGORY D. STUMBO
ATTORNEY GENERAL

David Edward Spenard
Dennis G. Howard II
Assistant Attorneys General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601-8204
502 696 5457

11 January 2005

TABLE OF CONTENTS

I. INTRODUCTION	1
1.1 Procedural Overview	1
1.2 Operational Overview	1
II. RATE BASE	4
2.1 Use of a Forward-Looking Test Period	4
2.2 Utility Plant Acquisition Adjustment	5
2.3 Construction Work in Progress (CWIP)	5
2.4 Cash Working Capital	6
2.5 Deferred Debits - Security Costs	6
III. OPERATING INCOME	7
3.1 Rate Case Expense	7
3.2 Consolidated Income Taxes	7
IV. RATE OF RETURN	8
4.1 Return on Common Equity	8
V. RATE DESIGN	9
5.1 Emergency Pricing Tariff	9
5.2 Low Income Water Discount	9
5.2.1 There is No Statutory Authority for the Tariff	9
5.2.2 There is No Evidence that Kentucky-American's Proposal Will Produce a Net Benefit.	12
5.2.3 Attorney General's Recommendation in the Alternative	16
5.3 Activation Fee	17
5.4 LFUCG Proposal for Public Fire Rates	17

I. INTRODUCTION

1.1 Procedural Overview

The Attorney General submits this reply brief in response to the initial briefs of the Kentucky-American Water Company, the Lexington-Fayette Urban County Government, and the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. The Attorney General's initial brief contains a thorough discussion of his position, and a point-by-point reiteration is unwarranted for his reply. There are, nonetheless, certain matters raised in the briefs of other parties that merit further discussion.¹

1.2 Operational Overview

Kentucky-American's application included a self-styled "Analysis of Earnings History."² The purpose of the exhibit is to support advocacy on behalf of the company's theories concerning its return on equity. The numbers on the schedule are "per books numbers," and they have not been adjusted for such factors as weather normalization, elimination of costs that are not recoverable from ratepayers, or any other adjustments.³ In sum, they are not numbers that have been adjusted for ratemaking purposes.

In its initial Brief, Kentucky-American points to financial statements filed with the Commission by letter dated 22 November 2004.⁴ First, the company fails to indicate

¹A brief was submitted by Bluegrass FLOW, Inc. The FLOW brief, however, did not raise any issue that requires a rejoinder.

²Exhibit 10, Direct Testimony, Miller, Exhibit MAM-1.

³TE Vol. II of V, page 217.

⁴KAWC Brief, pages 7 and 8.

where the referenced materials appear as part of the record of this case. While the company did file its Responses to Hearing Data Requests for Information on November 22nd, KAWC does not point to nor has the Office of the Attorney General been able to identify the location of this information in the November 22nd filing. The information does not appear to be part of the record of this case, and it has not been subject to examination. Second, in that Kentucky-American has previously provided per book numbers unadjusted for ratemaking purposes, the Commission should ignore the information in Kentucky-American's Brief absent a demonstration that the ROE numbers provided have been properly adjusted for ratemaking consideration. It appears, again, that Kentucky-American provides an "apples to oranges" approach to consideration of its return on equity.

With respect to its return on equity, the following facts are in the record.

Kentucky-American uses a forward-looking test period as well as weather normalized sales in establishing its rates. Thus, it has the advantage of two very important tools to allow it a reasonable opportunity to achieve its authorized return. Kentucky-American has developed an appetite for delving into business activity other than its regulated distribution of water service, and its non-regulated operations are money losers.⁵

Kentucky-American has also spent a fair amount of resources and money on matters that are not recoverable through rates. There is ample evidence in this case to support the position that if Kentucky-American wants to find the reasons for its inability to meet a higher "per books" ROE number, it may wish to examine its non-regulated activity and

⁵See, for example, TE Vol. I of V, pages 119 and 120.

its spending for matters that are not proper for ratemaking. At issue is the appropriate revenue requirement for its regulated water operations, and Kentucky-American's application grossly overstates its requirement for providing reasonable service.

II. RATE BASE

2.1 Use of a Forward-Looking Test Period

Kentucky-American alleges that there has been “castigation” of its use of a forward-looking test period by the Attorney General.⁶ It fails to identify any portion of the Attorney General’s Brief in which even a suggestion is made that Kentucky-American does not have a right to use a forward-looking test period. The company’s hyperbole aside, the following point is clear. KAWC’s use of a forward-looking test period is not as uneventful as the company submits. The continuing necessity of a slippage adjustment due to the fact that Kentucky-American’s forecasts have “proven an inaccurate indicator of the utility plant that will be completed and placed in service,”⁷ the troublesome nature of the company’s use of deferrals,⁸ the necessity for other adjustments to rate base and operating income items manifest in the orders of this Commission, as well as a variety of other factors concomitant with putting together a rate case using a future test year⁹ (with the pending case offering a prime example) do provide a more than adequate basis for the Attorney General’s constructive scrutiny of the company’s use of a forward-looking test period.

⁶KAWC Brief, page 8.

⁷See, for background, *In the Matter of: Notice of Adjustment of the Rates of Kentucky-American Water Company*, Case No. 92-452, Order, 19 November 1993, page 7.

⁸*In the Matter of: Application of Kentucky-American Water Company to Increase Its Rates*, Case No. 2000-00120, Order, 27 November 2000, pages 21 to 24.

⁹TE Vol. IV of V, pages 54 through 62.

2.2 Utility Plant Acquisition Adjustment

With regard to the company's Utility Plant Acquisition Adjustment, Kentucky-American does not identify any contravention of its position that it is in a unique position in the Commonwealth or any challenge to its charitable activities. Thus, there is no attempt to stop Kentucky-American's various activities. There is, quite properly, an identification of the fact that Kentucky-American has non-regulated activities that are not the responsibility of its regulated customer base and an identification of the fact that Kentucky-American's acquisitions further its shareholder's interest.

Regulated water service customers should not pay excessive rates as a consequence of the company's business development endeavors that do not provide the ratepayers with any specific material and identifiable benefit. Moreover, it is important to point out that the challenge is to the premium paid that is represented by the adjustment. For example, the Attorney General does not challenge the capital improvements in rate base for the Northern Division or the company's right to recover these costs. Kentucky-American is being fully compensated for the improvements it has made to these systems for which it seeks rate recovery.

2.3 Construction Work in Progress (CWIP)

With respect to Construction Work in Progress, Kentucky-American makes the assertion that "no investor can be expected to make an investment exceeding \$6,000,000 in a forecasted test period without receiving an appropriate return during that same period."¹⁰ In reality, the issue is whether CWIP should be in rate base, and there are

¹⁰KAWC Brief, page 15.

plenty of companies, whose rate are set using the alternative regulatory approach recommended by the Attorney General, that invest considerably more than \$6,000,000 a year without receiving CWIP in rate base.

2.4 Cash Working Capital

With regard to Cash Working Capital, if Kentucky-American believes that the Service Company lags should not be based upon employee costs (which are approximately 70%¹¹), then perhaps the Service Company charges should be based upon the average of all of Kentucky-American's other expenses. In any event, a prepayment is still inappropriate.

2.5 Deferred Debits - Security Costs

With regard to Security Costs, Kentucky-American discusses what has happened in other jurisdictions.¹² A more comprehensive presentation of various treatments of deferred security costs appears in response to a Commission data request.¹³ The treatment varies from jurisdiction to jurisdiction including some in which the costs were simply written off between rate cases.¹⁴ On this point, it also merits mention that the company's analysis fails to identify which jurisdictions other than Kentucky utilize a forward-looking test period in setting rates. The result remains the same in that the costs should not be allowed.

¹¹See, for example, TE Vol. I of V, page 175.

¹²KAWC Brief, pages 25 to 27.

¹³KAWC Response to PSC 4 - 28.

¹⁴See also, TE Vol. II of V, page 238.

III. OPERATING INCOME

3.1 Rate Case Expense

Kentucky-American spends an enormous amount of money on its rate case expense. The company points to spending on “unanticipated” expenses involving the Attorney General’s consolidated income tax proposal and the use of a hypothetical capital structure.¹⁵ Of course, Kentucky-American’s projection of rate case expense in the amount of \$622,409, including \$280,000 in legal fees, was done prior to the Attorney General’s pre-filing of his Direct Testimonies. From the beginning, the regulatory expense projection was excessive. The redundant efforts should be eliminated.

3.2 Consolidated Income Taxes

Distinct from all other utilities in the Commonwealth, Kentucky-American sought and gained specific approval of a transaction to allow it to file its taxes as part of a larger consolidated group.¹⁶ The company’s duties and obligations accepted as part of the approval process are unique to Kentucky-American. There is no need for an administrative case to precede the imposition of a consolidated income tax adjustment.¹⁷

¹⁵KAWC Brief, page 39.

¹⁶*In the Matter of: The Joint Petition of Kentucky-American Water Company, Thames Water Aqua Holdings GmbH, RWE Aktiengesellschaft, Thames Water Aqua US Holdings, Inc., Apollo Acquisition Company, and American Water Works Company, Inc., for Approval of a Change in Control of Kentucky-American Water Company, Case No. 2002-00317.*

¹⁷In passing, there was no need for an administrative case prior to the Commission’s adoption of an effective tax rate in Case No. 2001-00092. Likewise, even in the absence of the TWUS approval process, there would be no need for an administrative case.

IV. RATE OF RETURN

4.1 Return on Common Equity

We are not in Florida. Kentucky-American speculates that if we were, the authorized return on common equity would be 11.3%.¹⁸ If we are to pretend as to our location and the corresponding authorized rate of return, let's think about using West Virginia instead. Unlike Florida, West Virginia is a jurisdiction that has a regulated American affiliate. Indeed, many of the key players for Kentucky-American (Chris Jarrett, Mike Miller, and James Salser in particular) have extensive ties to West Virginia-American. Also, West Virginia is actually right next door and serves as a much better proxy.

Also, Dr. Morin did not testify. Morin's thoughts on Kentucky-American's operations, regulatory environment, and pending application are unknown and certainly not part of the record in the current case.

¹⁸KAWC Brief, page 52.

V.
RATE DESIGN

5.1 Emergency Pricing Tariff

Kentucky-American, in its brief, provides an exhibit pertaining to the Emergency Pricing Tariff.¹⁹ The exhibit purports to show that the proposed tariff would reduce consumption to less than 35 million gallons a day. The exhibit, which was not presented until after discovery and the evidentiary hearing, does not appear to reflect other steps that would be taken before the imposition of the emergency tariff. For example, it starts with unrestricted consumption thereby ignoring odd-even outdoor water bans, etc. What Kentucky-American has not shown anywhere in the record or by this exhibit is the incremental benefit of the Emergency Pricing Tariff. Further, it has not compared the incremental benefit to the corresponding cost in order to allow an assessment of whether it is a cost-effective means to reduce consumption.

Also, to be blunt, to the extent that the Exhibit is offered unilaterally by the applicant as evidence following the close of the evidentiary hearing and without any demonstration of good cause as to why it was not produced previously, it should be disregarded if not stricken.

5.2 Low Income Water Discount

5.2.1 There is No Statutory Authority for the Tariff

Rate-making is legislative in character; therefore, the process of establishing rates requires a variety of public policy decisions. On the issue of free or reduced rate service,

¹⁹KAWC Brief, Exhibit - "Emergency Pricing Tariff design using forecasted test year sales volumes.

the General Assembly has spoken. The rules for authorizing free or reduced rate service are set forth by KRS 278.170, and KAWC's proposal does not fall within this statute.

Kentucky-American offers the following. It may, under KRS 278.030(3) use “‘suitable and reasonable classifications’ of its service, patrons and rates and may take into account ‘the nature of the use, the quality used, the quantity used, the time when used, the purpose of which used, and any other reasonable consideration.’”²⁰ There is no challenge to the utility's ability to classify its customers. At issue is the utility's ability to offer free or reduced rate service to a customer, and while there is authority to classify service, patrons, and rates, the question of authorizing free or reduced rate service for any customer group is controlled by KRS 278.170(2). The utility may not avoid KRS 278.170(2) by simply pointing to the right to establish different classifications under KRS 278.030(3).

Kentucky-American discusses KRS 278.170(1) and its prohibition against “any unreasonable preference or advantage.” However, free or reduced rate service is not addressed by Subsection 1. It is addressed by Subsection 2. For the applicable Subsection covering free or reduced service, Kentucky-American is silent. Kentucky-American points to the fact that it has contributed to the cost of the program (presumably the Water for Life Fund). Its contributions are commendable, but they are voluntary contributions. The mere fact that Kentucky-American has made monetary donations in the past does not render this tariff legal. KRS 278.170(2) renders it illegal.

²⁰KAWC Brief, page 43.

CAC also points to KRS 278.170(1). While the Commission may determine if an advantage or preference is reasonable or unreasonable, the Commission as a creature of statute may not define its own grant of authority to add to or subtract from the legislature's instructions regarding free or reduced rate service. Again, free and reduced rate service is addressed under Subsection 2 of this statute rather than Subsection 1, and Subsection 1 offers no authorization.

In discussing Subsection 2, CAC (after excising for consideration the portion of the Subsection that addresses free or reduced rates for charitable or eleemosynary institutions) points to the "calamity" provision of Subsection 2. The Commission is familiar with the canons of construction and the rule of *ejusdem generis*.²¹ The plain language of this portion of Subsection 2 authorizes free or reduced rate service as a response measure for natural disasters or other catastrophic events outside of human control. The Low Income Water Discount Tariff does not address such an event.

CAC seeks to use economic need as the basis for free or reduced rate service for individual residential customers. This goal is laudable, but it is unauthorized. Presently, while the General Assembly authorizes free or reduced rates for charitable or eleemosynary institutions that serve the needy, it does not authorize free or reduced rates for the needy themselves. Thus, this is the present limit for free or reduced rate service for charitable purposes. If there is need for an expansion of the scope of this authorization, it is a matter for the General Assembly.

²¹See, generally, *Commonwealth v. Plowman*, Ky., 86 S.W.2d 47 (2002).

Finally, CAC identifies *National-Southwire Aluminum Company et al. v. Big Rivers Electric Corp.*, Ky.App., 785 S.W.2d 503 (1990) for the premise that anything goes. CAC concedes that *National-Southwire* discusses Subsection 1. The case does not address Subsection 2 or the issue of free or reduced rates.

In summarizing the lack of statutory authority, it should be noted that the General Assembly has spoken on the issue of free or reduced rate service. The process of allowing free or reduced rate service for situations other than those expressly authorized by statute is not without consequence. In the near term, the big picture is the pseudo-economic development tariff. In the long-run, it is the case that the Commission will see other special interest customer groups with compelling circumstances seeking non-statutorily authorized free or reduced rate service as a means to further other laudable social goals. For example, is it not the case that teachers, police officers, and members of the military are essential members of the community? Why then is free or reduced rate service for these individuals as a means to promote the public good any less valid or authorized?

5.2.2 There is No Evidence that Kentucky-American's Proposal Will Produce a Net Benefit.

Lack of statutory authority aside, there are additional reasons why Kentucky-American's proposal is unreasonable. Foremost, there has been no actual demonstration of any particular benefit. For example, if we are to believe Kentucky-American and accept its stance toward the Activation Fee provision of this same application, low-income people in KAWC's service territory are renters and renters get water that is not

generally metered.²² Thus, it is not clear that the discount will provide any direct benefit to low-income customers.

Second, even for those who may receive direct benefit, one question is ever present. Will it help? If a person is unable to pay a \$10.00 bill, how will a \$2.00 credit to a \$20.00 bill provide relief? Kentucky-American presents no credible evidence of a net benefit from this proposal.²³ Presently, a customer who has been disconnected for nonpayment of any bill for water service must pay a \$24.00 reconnection fee.²⁴ Indeed, the Activation Fee appears to be structured to close a proverbial loophole relating to attempts to avoid the reconnection fee.²⁵ Thus, this proposed discount has the markings of a 2 foot rope being touted as a rescue means for people trapped in a 20 foot hole.

Kentucky-American presently has a tariff provision that authorizes partial payment plans.²⁶ The company, which bears the burden of proof, presents no evidence or discussion concerning the results of this existing tariff provision or how it will function with its Low Income Water Discount Tariff in place. Considering the fact that the company points to items such as increased arrearages and collection costs as factors justifying the tariff, it is difficult to understand why Kentucky-American presents this

²²KAWC Brief, page 45; TE Vol. III of V, pages 213 to 215.

²³TE Vol. III of V, pages 245, 246.

²⁴Kentucky-American Water Company Tariff, PSC No. 6, First Revised Sheet No. 56.

²⁵TE Vol. III of V, pages 212, 213.

²⁶Kentucky-American Water Company Tariff, PSC No. 6, Original Sheet No. 63.

proposal in hypothetical isolation rather than in the context of its actual experience with its customers who face problems paying bills.

CAC argues that two factors make the discount reasonable. First, the discount is “likely to reduce reconnection and collection costs to the company.”²⁷ The basis for this statement is speculation and conjecture. There is no evidence to support it. Second, CAC submits that low-income customers are twice as likely to move during any given year and, therefore, incur the activation fee.²⁸ The suggestion by the Company is to the contrary. It states that its lower income families rent property and the water service is in the name of the owner of the property.²⁹ This contradiction only goes to highlight the fact that neither Kentucky-American nor CAC can point to actual evidence of the impact of the discount tariff.

Also, it merits mention that both KAWC and CAC discuss bad debt write offs. Bad debt is an expense item that is already incorporated into Kentucky-American’s rates and otherwise already funded by the whole body of ratepayers. If there is any notion that the proposal will reduce bad debt write-offs, a corresponding adjustment is in order and has been neglected by Kentucky-American.

CAC suggests that the Attorney General ignores the testimony of its own witness.³⁰ The Attorney General does not. The confusion on the part of CAC stems from

²⁷CAC Brief, page 6

²⁸CAC Brief, page 6.

²⁹KAWC Brief, page 45.

³⁰CAC Brief, page 5.

the fact that the Attorney General declines to engage in the proverbial process of “mixing apples and oranges.”

The **actual cost to deliver** water service to side-by-side households is essentially the same.³¹ Thus, the **cost to deliver water** service to a low-income family living next door to a non-low-income family³² is the same. Unremarkably, the bill for such service is the same. This point is not contested, and the Attorney General’s position is that the status quo should remain in place. The difference in the cost to serve is on the billing and collection side,³³ and the discussion should focus upon that difference if there is an area that merits change.

Accepting the CAC position, the cost to serve the low-income customer is already **greater** than, not less than, the cost to serve the non-low-income customer. Kentucky-American presently seeks a reconnection fee as a means to recover this difference, and it will continue to seek the \$24.00 fee in the future. (The bad debt expense and any other costs not otherwise recovered by the reconnection fees are already being borne by the general body of ratepayers.) If we are to enter into a serious discussion on how to reduce costs on the billing and collection side, we have to deal with the reconnection fee and whether it is more beneficial to simply reduce or waive the reconnection fee for low-income customers than to offer a prospective \$2.00 a month discount for people who, due

³¹TE Vol. III of V, pages 247, 248.

³²Rather than accept the CAC framework that implies that a family that is not low-income is “affluent” (wealthy or rich), the OAG will simply distinguish the families as low-income and non-low-income.

³³TE Vol. III of V, pages 248 and 251.

to the inability to pay the reconnection fee, cannot get back on the system to receive any benefit from the discount. CAC fails to offer any credible evidence or persuasive argument relating to the overall impact of the Low Income Water Discount Proposal.

5.2.3 Attorney General's Recommendation in the Alternative

While the Attorney General continues to oppose the Low Income Water Discount tariff due to the fact that this free or reduced rate is not authorized by KRS 278.170, he will make a series of recommendations in the alternative. The recommendations do not represent a concession or admission by the Attorney General of any point. Instead, his recommendations reflect acceptance of certain facts for the sake of argument.

As a start, the funding for the discount should be through a per meter charge. This mechanism will allow the fund to grow as the number of customers grows. It would also allow the charge to appear as a separate line-item which is, per Commission precedent, appropriate for this type of charge. The amount of the charge would be an additional 2.5 cents for each bill. Obviously, the charge would not apply to the recipients of the discount.

Additionally, Kentucky-American suggests that the tariff will reduce costs such as its bad debt cost and collection costs. Yet, the company's application does not make any adjustment for the savings. Consequently, a charge should be structured to recognize that fact. Presently, in the absence of any credible information detailing the financial benefits of the program, it is appropriate to assume that it would provide significant benefits (reduction in bad debt, etc.) greater than the cost of the program. Therefore, the Company's shareholders should be responsible for an additional 5 cents for each bill - an

amount in addition to the ratepayers' 2.5 cents. This amount represents a very conservative estimate of the amount of operational savings that Kentucky-American expects as part of this proposal but is not otherwise reflected in its application. If we are to operate under Kentucky-American's theory of the Commission's authority, there is nothing in KRS Chapter 278 that precludes these provisions.

5.3 Activation Fee

Kentucky-American makes the allegation that "lower income families traditionally rent property and water service is usually in the name of the owner of the property."³⁴ There is no support for this statement in the record. If, nonetheless, the company seeks to rely upon this premise in arguing for the Activation Fee, it must likewise accept the premise for the Low Income Water Discount Tariff proposal.

5.4 LFUCG Proposal for Public Fire Rates

The Lexington-Fayette Urban County Government submits the following proposal.

The appropriate revenue for public fire protection in this case is determined by multiplying the total sales revenue awarded by the Commission by no more than 4.0 percent, and then further reducing this amount by the reasonable amount of the benefit that such hydrants provide to the other customers and the system as a whole. This amount would then be divided by the number of public fire hydrants to determine the rate to be charged.³⁵

³⁴KAWC Brief, page 45.

³⁵LFUCG Brief at page 7.

The Commission should reject this proposal. First, the LFUCG seeks to rely upon a single element of a four-year old cost-of-service study in isolation from all other elements and without any discussion of rate design principles. Second, we do not know the impact of Lexington-Fayette's proposal on the other rate classes. For example, how will the remaining revenue requirement be assigned? LFUCG does not provide us with the answer. Is the LFUCG ready to recommend, under its approach, the corresponding increases on the industrial class customers and sales for resale class customers above those recommended by Kentucky-American in its application? LFUCG is silent on the issue.

The silence is not without consequence. Other than the impact on public fire rates, the record has not been developed to demonstrate exactly what happens to Kentucky-American's remaining rate schedule under the LFUCG proposal. LFUCG bears the burden of its proposal, and it fails to adequately support its proposal by submitting or otherwise identifying evidence of the consequence of the proposal and by making recommendations for the development of the rate design of the other classes impacted by acceptance of the proposal. The Commission should reject this type of rate design spot adjustment.

Submission of Filing in Paper Medium

Per Instructions 3 and 13 of the Commission's 27 May 2004 Order, Counsel submits for filing, by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, the original and one copy in paper medium of the document. 12 January 2005 is the date for the filing in paper medium.



Assistant Attorney General

Certificate of Service

Per Instructions 4, 8 (d), and 12 of the May 27th Order, Counsel certifies service of a true and correct photocopy of the document by mailing the photocopies, first class postage prepaid, to the other parties of record on 11 January 2005.

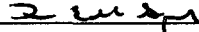
The following are the other parties of record: David Jeffrey Barberie, Leslye M. Bowman, Lexington-Fayette Urban County Government, Department of Law, 200 East Main Street, Lexington, Kentucky 40507; Coleman D. Bush, Kentucky-American Water Company, 2300 Richmond Road, Lexington, Kentucky 40502; Joe F. Childers, 201 West Short Street, Suite 310, Lexington, Kentucky 40507; Roy L. Ferrell, West Virginia American Water Company, 1600 Pennsylvania Avenue, Charleston, West Virginia 25302; Lindsey W. Ingram III, Stoll, Keenon & Park, LLP, 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801; Lindsey W. Ingram, Jr., Stoll, Keenon & Park, LLP, 300 West Vine

Street, Suite 2100, Lexington, Kentucky 40507-1801; Michael A. Miller, West Virginia American Water Company, 1600 Pennsylvania Avenue, Charleston, West Virginia, 25302; Jon Parker, 201 W. Short Street, Suite 310, Lexington, Kentucky 40507; Bluegrass FLOW, Inc., c/o Foster Ockerman, Jr., 200 N. Upper Street, Lexington, Kentucky 40507; and Roy W. Mundy II, Kentucky-American Water Company 2300 Richmond Road, Lexington, Kentucky 40502.


Assistant Attorney General

Certification Regarding Electronic Filing

Counsel certifies that he has (per Instructions 3 and 8 (b) of the May 27th Order) submitted one copy of the document in electronic medium. Pursuant to Instructions 8 (a) and 8 (c) of the May 27th Order, he certifies that the electronic version of the filing is a true and accurate copy of the document filed in paper medium and that he has, by electronic mail, notified the Commission and the other parties that the electronic version of the filing has been transmitted to the Commission. (See attached) 11 January 2005 is the date of filing in electronic medium.


Assistant Attorney General