

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Adjustment of Rates of Kentucky-
American Water Company

)
)

Case No. 2004-00103

ATTORNEY GENERAL'S RESPONSE TO THE
KENTUCKY-AMERICAN WATER COMPANY'S
PETITION FOR CONFIDENTIALITY

The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, submits this Response to the Kentucky-American Water Company's Petition for Confidentiality. Filing of the Petition was by electronic transmission on 6 August 2004. Per 807 KAR 5:001 Section 7 (2) e, the Attorney General's Response is timely-filed. The Attorney General has yet to gain access to the redacted materials. Nonetheless, the Attorney General submits the following.

KAWC seeks confidential treatment for certain portions of its Response to Item No. 30 of the Commission Staff's third data request. The Attorney General has no objection to affording confidential treatment to "personal information (ages and social security numbers)."

Kentucky-American seeks confidential treatment for "information that tends to show the valuation formulas and processes Kentucky American Water uses in considering whether to make such purchases and for what price."

Additionally, it seeks confidential treatment for “activities about other possible acquisitions which are irrelevant to the data request.”

Kentucky-American engages in business development activities. While there may be a need to provide confidential treatment to some information regarding KAWC’s business development, the Company bears the burden of establishing the need to prevent disclosure.

The Attorney General does not concede that the Company has met its burden regarding the business development information. He requests that the Commission restrict the provision of confidential treatment to information that, if released to the public, would “give their competitors ‘substantially more than a trivial unfair advantage.’”¹ Further, it is clear that in meeting the burden Kentucky-American must demonstrate a risk of damage that is “more than merely speculative.”²

¹ *In the Matter of: Application for Approval of the Transfer of Control of Kentucky-American Water Company to RWE Aktiengesellschaft and Thames Water Aqua Holdings GmbH*, Case No. 2002-00018, Order, 12 April 2002 (as amended by Order 16 April 2002), page 4 citing *Southeastern United Medigroup, Inc. v. Hughes*, Ky., 952 S.W.2d 195, 199 (1997).

² Case No. 2002-00018, Order, 12 April 2002, page 4.

WHEREFORE, the Attorney General submits his response to the Kentucky-American Water Company Petition for Confidentiality.

Respectfully submitted,

GREGORY D. STUMBO
ATTORNEY GENERAL
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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. 17 August 2004 is the date for the filing in paper medium.

/s/ David Edward Spenard
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 16 August 2004.

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; and Roy W. Mundy II, Kentucky-American Water Company 2300 Richmond Road, Lexington, Kentucky 40502.

/s/ David Edward Spenard
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) 16 August 2004 is the date of filing in electronic medium.

/s/ David Edward Spenard
Assistant Attorney General