

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:]
]
NOTICE OF ADJUSTMENT OF THE RATES OF]
KENTUCKY-AMERICAN WATER COMPANY]
EFFECTIVE ON AND AFTER MAY 30, 2004]

CASE NO. 2004-00103

BLUEGRASS FLOW, INC.
MOTION TO DISMISS OR FOR A NEW SCHEDULE

Bluegrass FLOW, Inc., (“BGFlow”) moves the Commission to dismiss this application with leave to refile or, in the alternative, to postpone the schedule evidenciary hearing and enter an order setting a new procedural schedule.

In support whereof, BGFlow states that its motion for full intervention was filed on June 14, 2004 but it was not action on by the Commission until September 1, 2004, a period of two and one-half months. During that period, all deadlines for the opportunity to send requests to Kentucky-American Water Co. and for the filing of intervenor testimony expired. Although the Commission entered a revised procedural order on September 1, 2004, the schedule was not changed to permit BGFlow to participate in the process.

The Order purporting to grant BGFlow full intervention stated that it was to “be entitled to the full rights of a party. . . .” (Order, 9/1/2004, p. 4.) However, because the Commission did not revise its procedural calendar, BGFlow was denied the full rights of a party.

The foregoing errors constitute procedural and substantive due process denials of BGFlow’s rights.

Wherefore, Bluegrass FLOW, Inc., moves the Commission to dismiss this application with leave to refile or, in the alternative, to postpone the schedule evidenciary hearing and enter an order setting a new procedural schedule.

Respectfully submitted,

MARTIN, OCKERMAN & BRABANT LLP
200 N. Upper St.
Lexington, KY 40507
(859) 254-4401

Foster Ockerman, Jr.
ockerman@kycounsel.com
Attorneys for Bluegrass FLOW, Inc.

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Motion to Intervene was served by first class mail, postage prepaid, upon the following on this the _____th day of November, 2004.

Deborah Eversole
Public Service Commission
211 Sower Dr.
PO Box 615
Frankfort, KY 40601

David Jeffrey Barberie
Lexington-Fayette Urban County Government
Department Of Law
200 East Main Street
Lexington, KY 40507

Coleman D. Bush
Director Business Development
Kentucky-American Water Company
2300 Richmond Road
Lexington, KY 40502

Joe F. Childers
201 West Short Street
Suite 310
Lexington, KY 40507

Roy L. Ferrell
West Virginia American Water Company
1600 Pennsylvania Avenue
Charleston, WV 25302

Lindsey W. Ingram, Jr.
Lindsey W. Ingram, III
Stoll, Keenon & Park, LLP
300 West Vine Street
Suite 2100
Lexington, KY 40507-1801

Michael A. Miller
West Virginia American Water Company
1600 Pennsylvania Avenue
Charleston, WV 25302

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

David Edward Spenard
Assistant Attorney General
Office of the Attorney General
Utility & Rate Intervention Division
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204

Attorneys for Bluegrass FLOW, Inc.