

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

KENTUCKY-AMERICAN WATER)	
COMPANY'S REQUEST FOR)	CASE NO. 2009-00359
APPROVAL OF PAYMENT OF DIVIDEND)	

KENTUCKY-AMERICAN WATER
COMPANY'S STATUS REPORT AND REQUEST

On October 27, 2009, Kentucky-American Water Company ("KAW") filed its proposed settlement to fully and finally resolve its omission in failing to seek Public Service Commission approval prior to paying dividends on common stock on March 31, 2009 and June 30, 2009. That issue, as well as KAW's request in this case for approval to pay a dividend that was payable on September 29, 2009, are still pending before the Commission. KAW files this status report to inform the Commission that as of November 30, 2009, RWE and Thames GmbH no longer had any beneficial interest, direct or indirect, in any class of securities of American Water Works Company, Inc. ("AWW"). Therefore, in accordance with Ordering Paragraph 16 of the Commission's April 16, 2007 Order in Case No. 2006-00197, the conditions set forth in the Commission's December 20, 2002 Order in Case No. 2002-00317 have terminated.

While it was effective, Condition No. 32 of the Commission's Order of December 20, 2002 in Case No. 2002-00317 required KAW to obtain Commission approval prior to paying dividends in any calendar year that collectively exceed five percent of KAW's retained earnings as of December 31 of the preceding year. Therefore, when KAW declared a dividend that was to be paid on September 29, 2009, it requested approval to make that payment in its September 4,

2009 filing in this case. To date, KAW has not paid that dividend because the Commission has not ruled on the September 4, 2009 request. Now, however, the condition that required approval to make payment – Condition No. 32 in Case No. 2002-00317 – has terminated. Therefore, KAW believes that Commission approval to pay the September 29, 2009 dividend is no longer required. KAW requests an acknowledgement from the Commission to that effect so that KAW can be sure that it may pay the September 29, 2009 dividend without negative repercussion. In the alternative, if the Commission believes that approval to pay the September 29, 2009 dividend remains necessary, KAW respectfully requests that such approval be given within the next 7-10 days.

The November 30, 2009 cessation of RWE's beneficial interest in any class of securities of AWW also impacts the other issue in this case. In its October 27, 2009 proposed settlement, KAW explained that one of the reasons in favor of imposing any penalty at the lower end of the monetary range set forth in KRS 278.990(1) was that the need for Condition No. 32 was diminishing.¹ As of October 27, 2009, RWE still owned approximately 24% of AWW's common stock. Now, however, total divestiture has been completed. Therefore, Condition No. 32 and the need for it no longer exist. Certainly, KAW continues to recognize that Condition No. 32 applied at the time KAW made its inadvertent error, but the complete termination of Condition No. 32 should have some relevance in setting the amount of any penalty to be imposed.

In summary, KAW seeks an acknowledgement from the Commission that approval is no longer necessary to pay the September 29, 2009 dividend, or, in the alternative, that such approval be granted within the next 7-10 days. Further, KAW suggests that complete divestiture

¹ See KAW's October 27, 2009 Proposed Settlement, p. 3.

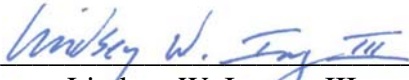
and resulting termination of Condition No. 32 weigh in favor of setting any penalty at the lower end of the statutory range.

Respectfully submitted,

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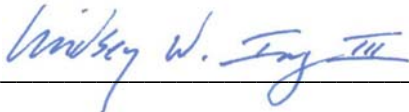
BY: 

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CERTIFICATION

This is to certify that an original and one copy of the foregoing will be filed at the Public Service Commission on December 8, 2009 in paper medium, that the electronic version of this document is a true and accurate copy of the document that will be filed in paper medium, that that the electronic version of this document has been electronically transmitted to the Commission, and that notification of that transmission has been made to the following on this 7th day of December, 2009:

David Edward Spenard
Assistant Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601-8204

BY: 

Stoll Keenon Ogden PLLC