

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

**IN THE MATTER OF:**

**ELECTRONIC VERIFIED JOINT APPLICATION                    )  
OF EASTERN ROCKCASTLE WATER ASSOCIATION            ) CASE NO. 2017-00383  
AND KENTUCKY-AMERICAN WATER COMPANY            )  
FOR THE TRANSFER OF CONTROL AND ASSETS            )**

---

**MOTION FOR LEAVE TO INTERVENE BY  
JAMES E. BALLINGER AND THOMAS P. DUPREE, JR**

---

James E. Ballinger and Thomas P. Dupree, Jr., by counsel, respectfully request intervention in the above-styled matter. In support of their motion, Ballinger and Dupree state the following:

Ballinger resides at 6049 Three Links Road, McKee, Kentucky, and is a customer of the Eastern Rockcastle Water Association. Professionally, he is a civil engineer. Personally, he witnessed his father play an integral role in creating the Eastern Rockcastle Water Association.

Dupree owns property at 2837 Three Links Road, Mt. Vernon, Kentucky and is a customer of the Eastern Rockcastle Water Association. Dupree is an investment advisor representative with over 35 years of experience in the financial sector. He is also the Fayette County Judge/Executive, having been appointed by Governor Bevin to fill the unexpired term of the late John S. Roberts.

The Commission has interpreted KRS 278.040(2) as requiring a person seeking intervention to have an interest in the rates or service of a utility as those are the only matters that are subject to the Commission's jurisdiction. See Order, Eastern Rockcastle Water Association Case No. 2017-00383 (Ky. PSC Oct. 17, 2017). Because Ballinger and Dupree are customers of

Eastern Rockcastle Water Association and potentially future customers of Kentucky-American Water Company, Ballinger and Dupree satisfy this requirement. They undoubtedly have an interest in the rates and service of Eastern Rockcastle Water Association and a prospective acquiring entity.

Administrative regulation 807 KAR 5:001, Section 4(11)(b) states:

The commission shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Ballinger and Dupree meet both these criteria. They have a special interest in transfer-of-control case that is not otherwise adequately represented. They are two educated professionals and customers of the Eastern Rockcastle Water Association, who seek to develop the record in this case to ensure that the proposed transfer of control meets the statutory requirements of KRS 278.020. At the time of this filing, no other person has sought to intervene in this matter, and therefore, no other party exists to represent the special interests of Ballinger and Dupree.

Moreover, Ballinger and Dupree will present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. They seek to address questions involving whether the transfer of control meets the statutory requirements of KRS 278.020, including specifically whether the transfer is within the public interest. They will seek to develop the record on how Kentucky-American Water Company's proposed acquisition will result in "improved service quality, enhanced service reliability, the availability of additional services, lower rates, or a reduction in utility expenses to provide present services." Kentucky-American Water Co., Case No. 2002-00018 (Ky. PSC May

30, 2002) at 7-8 (aff'd on appeal, Civ. Action No. 2002-CI-2012 (Franklin Cir. Ct. June 30, 2004)). They will also seek to develop the record on whether the Eastern Rockcastle Water Association performed the proper due diligence to determine that the transfer of control was in the public interest, including whether there may be other entities or individuals who could have acquired the system and provided additional benefits to the customers or operations and whether Eastern Rockcastle Water Association performed due diligence to determine the independent fair value of the system before signing a contract with Kentucky-American Water Company.

Ballinger and Dupree desire to serve in a constructive role in this matter and isolate issues that are most important to the standards set forth in KRS 278.020. Ballinger (with his engineering background) and Dupree (with his financial background), collectively with their counsel, have diverse professional backgrounds that can assist in raising issues that will provide information to the Commission in fully considering this matter. They are committed to neither unduly complicating nor disrupting the proceeding.

The undersigned counsel possesses the facilities to receive electronic transmission of all notices and messages related to this proceeding at the electronic mailing addresses listed below.

Accordingly, because Ballinger and Dupree have a special interest in this case that is not otherwise adequately represented and because they are likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, Ballinger and Dupree respectfully request intervention in this proceeding.

Respectfully submitted



---

STURGILL, TURNER, BARKER & MOLONEY, PLLC

James W. Gardner

M. Todd Osterloh

333 W. Vine Street, Suite 1500

Lexington, Kentucky 40507

Telephone No.: (859) 255-8581

Facsimile No.: (859) 231-0851

jgardner@sturgillturner.com

tosterloh@sturgillturner.com

*Attorneys for Ballinger and Dupree*

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that the October 23, 2017, electronic filing of this Motion is a true and accurate copy of the same document being filed in paper medium; that the electronic filing will be transmitted to the Commission on October 23, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of the Motion and six copies will be delivered to the Commission within two business days.



---

*Attorney for Ballinger and Dupree*