

February 25, 2009

Mr. Jeff R. DeRouen
Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

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PUBLIC SERVICE
COMMISSION

2009-00096

RE: Request to re-open PSC Case No. 2007-00134 given changed circumstances

Dear Mr. DeRouen:

Kentucky American Water's treatment plant/pipeline project (2007-00134) has been described by your agency as one of the most complex cases ever heard.

As you know, the project was and continues to be extremely controversial. We believe that the rationale provided in the PSC's April 25, 2008 order issuing Kentucky American Water a Certificate of Public Convenience & Necessity is no longer valid given changed circumstances.

For instance, as we detailed in our January 17, 2009 email to you, KAW is failing to abide by the provisions of its permits and the state largely is failing to enforce those permits.

Your agency issued its Certificate to KAW partly on the grounds that the company had obtained necessary permits. The assumption behind this logic is that the permits would be honored or, if not, enforced to ensure compliance.

This assumption is not borne out by KAW's or the state's track record on the ground.

Secondly, your agency's order characterized KAW's project as an example of regional collaboration. Changed circumstances make that statement blatantly wrong. Specifically, the BWSC failed to buy a 5% share in the water treatment plant, making it wholly owned by KAW. Winchester has decided to build its own water treatment plant. Five utilities from Frankfort to Louisville have formally created a regional commission that will bring water east from Louisville along the I-64 corridor.

Most importantly, changed economic circumstances nationally and internationally make your agency's assertion that KAW's project represented a least cost option no longer valid. Demand for water is certain to cool as heavy industry slows production. As an example, Toyota is producing fewer cars than expected in Georgetown. Toyota is a KAW customer.

We submit that the rate increases that will result as KAW attempts to recoup the costs of its infrastructure investment represent a harsh undue burden on rate payers at a time of economic duress.

In litigation KAW has failed to provide evidence that it has the right to condemn land outside its service area. This lack of statutory power will force the company to make costly route changes or other alterations to its plans that will further inflate the cost of the project.

At a time when the federal government can only guarantee 0% return on investment, we believe that it is egregious and unreasonable for the state of Kentucky to allow a for-profit company to make a 10-12% profit on its investment.

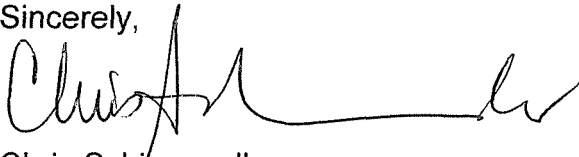
A number of reasonable, lower-cost options for supplying central Kentucky with water were presented during the administrative proceedings for Case No 2007-00134.

Given the profoundly different economic circumstances and the other reasons listed above, we submit that the Public Service Commission either take a second look at its conclusions in the instant case or open a new case to address these significant concerns.

While KAW is implementing its project, the company is nowhere near completion. Please address our concerns with urgency so meaningful action can be taken.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Schimmoeller", with a long horizontal flourish extending to the right.

Chris Schimmoeller
660 Mt. Vernon Rd.
Frankfort, KY 40601
502) 226-5751

cc: ✓ Gerald Wuetcher
Julian Carroll
Carl Rollins
Tom FitzGerald