



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

David L. Armstrong  
Chairman

James W. Gardner  
Vice Chairman

Linda K. Breathitt  
Commissioner

December 14, 2012

Lindsey W. Ingram III, Esq.  
Monica Braun, Esq.  
Stoll Keenon Ogden PLLC  
300 West Vine Street  
Suite 2100  
Lexington, Kentucky 40507-1801

Jennifer Hans, Esq.  
David Edward Spenard, Esq.  
Office of the Attorney General  
Utility & Rate Intervention Division  
1024 Capital Center Drive, Suite 200  
Frankfort, Kentucky 40601-8204

David J. Barberie, Esq.  
Jacob Walbourn, Esq.  
Lexington-Fayette Urban County Government  
Department Of Law  
200 East Main Street  
Lexington, Kentucky 40507

Re: Case No. 2012-00096  
Kentucky-American Water Company

Ladies and Gentlemen:

The enclosed memorandum has been filed in the record of the above-referenced case. Any comments regarding this memorandum's contents should be submitted to the Commission within five days of receipt of this letter. Any questions regarding this memorandum should be directed to Gerald Wuetcher, Executive Advisor/Attorney, at (502) 782-2590.

Sincerely,

Jeff Derouen  
Executive Director

gw  
Enclosure

**INTRA-AGENCY MEMORANDUM**

**KENTUCKY PUBLIC SERVICE COMMISSION**

**TO:** Case File No. 2012-00096

**FROM:** Gerald Wuetcher <sup>GEW</sup>  
Executive Advisor/Attorney

**DATE:** December 14, 2012

**RE:** Telephone Conference Call of October 3, 2012

On October 3, 2012, Commission Staff held a conference call in this matter at the request of Kentucky-American Water Company. Participating in the conference call were:

Lindsey Ingram III	-	Kentucky-American Water Company (KAWC)
Jennifer Hans	-	Office of Attorney General (OAG)
David Spenard	-	Office of Attorney General (OAG)
David Barberie	-	Lexington-Fayette Urban County Government
Eddie Beavers	-	Commission Staff
Mark Frost	-	Commission Staff
Scott Lawless	-	Commission Staff
Sam Reid	-	Commission Staff
James Rice	-	Commission Staff
George Wakim	-	Commission Staff
Gerald Wuetcher	-	Commission Staff

The electronic mail messages that led to the conference call are attached.

Beginning the conference, Mr. Wuetcher stated that Commission Staff would prepare minutes of the conference for the case record, that a copy of the minutes would be provided to all parties, and that all parties would be given an opportunity to submit written comments upon those minutes.

Mr. Spenard stated that the OAG planned to question KAWC witnesses at the scheduled hearing regarding Kentucky River Authority's (KRA) position on KAWC's proposed facilities and had notified KAWC's counsel of its plans. OAG maintained that KRA's position on the project had some relevance to the need for the facilities. Mr. Ingram maintained that KRA's position on the proposed facilities was no relevant and that KAWC opposed such questions. The parties wished some guidance from Commission Staff.

Mr. Wuetcher stated that the primary purpose of the hearing was to determine the need for the proposed facilities and whether their construction would result in the wasteful duplication of facilities or excessive investment. Unless KRA's position related to those issues, the relevance of KRA's position did not appear great. Mr. Wuetcher further noted that the Commission was the final arbiter of the issue and could allow such evidence to be presented but leave open the question of the weight to give to such evidence.

After some discussion regarding the relevance of KRA's position, the participants briefly discussed how testimony would be presented on KRA's position. Mr. Wuetcher inquired whether a KRA representative would appear and whether a subpoena was required. Mr. Spenard indicated that OAG had not made a final decision on this issue, but was considering introducing testimony through cross-examination of Keith Cartier, a KAWC witness who had filed written testimony. Mr. Spenard stated that Mr. Cartier was a member of KRA's Board. Mr. Ingram noted that such questioning would be outside the scope of Mr. Cartier's written testimony and is inappropriate as Mr. Cartier is not authorized to speak on KRA's behalf. Mr. Ingram suggested that, if OAG wished information regarding KRA's position on KAWC's proposed facilities, it should inquire directly of KRA's Executive Director and that KRA's Executive Director would be the appropriate witness to testify on KRA's position. Mr. Wuetcher inquired as to why OAG did not simply subpoena KRA's Executive Director as a witness. Mr. Spenard indicated that OAG was considering all of its options.

Mr. Barbarie stated that Lexington-Fayette Urban County Government shared the OAG's concerns regarding the proposed facilities and believed that KRA's position may have some relevance to the ultimate question before the Commission.

The participants then briefly discussed arrangements for the hearing. The conference then adjourned.

Attachments

cc: Parties of Record

**From:** [Ingram III, Lindsey](#)  
**To:** [Wuetcher, Jerry \(PSC\)](#)  
**Cc:** [Spenard, David \(KYOAG\)](#); [Hans, Jennifer \(KYOAG\)](#); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov); [jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); [Braun, Monica](#)  
**Subject:** RE: Case No. 2012-00096 (KAW Northern Division Connection)  
**Date:** Tuesday, October 02, 2012 3:30:21 PM

---

I believe 50 minutes will be sufficient. If LFUCG and AG agree, we can start at 1:00 pm tomorrow and here is dial-in information:

Dial In: 888-761-4448  
Passcode: 859-231-3982

Lindsey

---

**From:** Wuetcher, Jerry (PSC) [<mailto:JWuetcher@ky.gov>]  
**Sent:** Tuesday, October 02, 2012 3:27 PM  
**To:** Ingram III, Lindsey  
**Cc:** Spenard, David (KYOAG); Hans, Jennifer (KYOAG); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov); [jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); Braun, Monica  
**Subject:** RE: Case No. 2012-00096 (KAW Northern Division Connection)  
**Importance:** High

Several of the staff have another call at 2:00 p.m. so call will need to conclude by 1:50 p.m. If those time restrictions are acceptable, Staff can participate in a conference call at 1 p.m. Commission Staff requests that KAWC arrange the call.

---

**From:** Ingram III, Lindsey [<mailto:L.Ingram@skofirm.com>]  
**Sent:** Friday, September 28, 2012 2:39 PM  
**To:** Wuetcher, Jerry (PSC)  
**Cc:** Spenard, David (KYOAG); Hans, Jennifer (KYOAG); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov); [jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); Braun, Monica  
**Subject:** Case No. 2012-00096 (KAW Northern Division Connection)

Jerry:

I have been having discussions with David Spenard and Jennifer Hans about an issue that has arisen in the above-referenced case. We have agreed that we would like to advise Commission Staff of the issue and seek Commission Staff guidance on the issue because that may help simplify the evidentiary hearing that is set to occur on October 16. We're curious to know whether Wednesday, October 3 at 1 p.m. would work for a phone conference. If so, I would be glad to circulate toll-free dial-in information to everybody.

Lindsey W. Ingram III  
Stoll Keenon Ogden PLLC  
300 W. Vine St.  
Suite 2100  
Lexington, KY 40507  
859-231-3982 (direct dial)  
859-221-0997 (cell)  
859-246-3672 (direct fax)  
[L.ingram@skofirm.com](mailto:L.ingram@skofirm.com)

**From:** [Hans, Jennifer \(KYOAG\)](#)  
**To:** [Ingram III, Lindsey](#); [Wuetcher, Jerry \(PSC\)](#)  
**Cc:** [Spenard, David \(KYOAG\)](#); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov); [jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); [Braun, Monica](#)  
**Subject:** RE: Case No. 2012-00096 (KAW Northern Division Connection)  
**Date:** Tuesday, October 02, 2012 3:30:45 PM

---

The AG will be on the call. Thank you.

*Jennifer Black Hans*

Executive Director  
Office of Rate Intervention  
Office of the Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601  
(502) 696-5453 (Rate Intervention)  
(502) 696-5408 (Direct)  
Fax: 502-573-1009  
[jennifer.hans@ag.ky.gov](mailto:jennifer.hans@ag.ky.gov)

NOTICE OF CONFIDENTIALITY

This message is intended only for the use of the individual or entity to which it is addressed and may contain confidential information that is legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify this office by telephone and return this message to the Office of the Attorney General immediately. Thank you.

Under Kentucky Rule of Evidence 503, this communication is confidential and not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to or on behalf of the Office of the Attorney General.

---

**From:** Ingram III, Lindsey [<mailto:L.Ingram@skofirm.com>]  
**Sent:** Tuesday, October 02, 2012 3:30 PM  
**To:** Wuetcher, Jerry (PSC)  
**Cc:** Spenard, David (KYOAG); Hans, Jennifer (KYOAG); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov); [jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); Braun, Monica  
**Subject:** RE: Case No. 2012-00096 (KAW Northern Division Connection)

I believe 50 minutes will be sufficient. If LFUCG and AG agree, we can start at 1:00 pm tomorrow and here is dial-in information:

Dial In: 888-761-4448  
Passcode: 859-231-3982

Lindsey

---

**From:** Wuetcher, Jerry (PSC) [<mailto:JWuetcher@ky.gov>]  
**Sent:** Tuesday, October 02, 2012 3:27 PM  
**To:** Ingram III, Lindsey  
**Cc:** Spenard, David (KYOAG); Hans, Jennifer (KYOAG); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov); [jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); Braun, Monica  
**Subject:** RE: Case No. 2012-00096 (KAW Northern Division Connection)  
**Importance:** High

Several of the staff have another call at 2:00 p.m. so call will need to conclude by 1:50 p.m. If those time restrictions are acceptable, Staff can participate in a conference call at 1 p.m.

Commission Staff requests that KAWC arrange the call.

---

**From:** Ingram III, Lindsey [<mailto:L.Ingram@skofirm.com>]  
**Sent:** Friday, September 28, 2012 2:39 PM  
**To:** Wuetcher, Jerry (PSC)  
**Cc:** Spenard, David (KYOAG); Hans, Jennifer (KYOAG); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov);  
[jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); Braun, Monica  
**Subject:** Case No. 2012-00096 (KAW Northern Division Connection)

Jerry:

I have been having discussions with David Spenard and Jennifer Hans about an issue that has arisen in the above-referenced case. We have agreed that we would like to advise Commission Staff of the issue and seek Commission Staff guidance on the issue because that may help simplify the evidentiary hearing that is set to occur on October 16. We're curious to know whether Wednesday, October 3 at 1 p.m. would work for a phone conference. If so, I would be glad to circulate toll-free dial-in information to everybody.

Lindsey W. Ingram III  
Stoll Keenon Ogden PLLC  
300 W. Vine St.  
Suite 2100  
Lexington, KY 40507  
859-231-3982 (direct dial)  
859-221-0997 (cell)  
859-246-3672 (direct fax)  
[L.ingram@skofirm.com](mailto:L.ingram@skofirm.com)

**From:** [David Barberie](#)  
**To:** [Hans, Jennifer \(KYOAG\)](#); [Ingram III, Lindsey](#); [Wuetcher, Jerry \(PSC\)](#)  
**Cc:** [Spenard, David \(KYOAG\)](#); [Jacob Walbourn](#); [Braun, Monica](#); [Janet Graham](#)  
**Subject:** RE: Case No. 2012-00096 (KAW Northern Division Connection)  
**Date:** Tuesday, October 02, 2012 4:06:35 PM

---

As will LFUCG

---

**From:** Hans, Jennifer (KYOAG) [mailto:[jennifer.hans@ag.ky.gov](mailto:jennifer.hans@ag.ky.gov)]  
**Sent:** Tue 10/2/2012 15:32  
**To:** Ingram III, Lindsey; Wuetcher, Jerry (PSC)  
**Cc:** Spenard, David (KYOAG); David Barberie; Jacob Walbourn; Braun, Monica  
**Subject:** RE: Case No. 2012-00096 (KAW Northern Division Connection)

The AG will be on the call. Thank you.

*Jennifer Black Hans*

Executive Director  
Office of Rate Intervention  
Office of the Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601  
(502) 696-5453 (Rate Intervention)  
(502) 696-5408 (Direct)  
Fax: 502-573-1009  
[jennifer.hans@ag.ky.gov](mailto:jennifer.hans@ag.ky.gov)

NOTICE OF CONFIDENTIALITY

This message is intended only for the use of the individual or entity to which it is addressed and may contain confidential information that is legally privileged and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify this office by telephone and return this message to the Office of the Attorney General immediately. Thank you.

Under Kentucky Rule of Evidence 503, this communication is confidential and not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to or on behalf of the Office of the Attorney General.

---

**From:** Ingram III, Lindsey [mailto:[L.Ingram@skofirm.com](mailto:L.Ingram@skofirm.com)]  
**Sent:** Tuesday, October 02, 2012 3:30 PM  
**To:** Wuetcher, Jerry (PSC)  
**Cc:** Spenard, David (KYOAG); Hans, Jennifer (KYOAG); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov); [jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); Braun, Monica  
**Subject:** RE: Case No. 2012-00096 (KAW Northern Division Connection)

I believe 50 minutes will be sufficient. If LFUCG and AG agree, we can start at 1:00 pm tomorrow and here is dial-in information:

Dial In: 888-761-4448  
Passcode: 859-231-3982

Lindsey

---

**From:** Wuetcher, Jerry (PSC) [<mailto:JWuetcher@ky.gov>]  
**Sent:** Tuesday, October 02, 2012 3:27 PM  
**To:** Ingram III, Lindsey  
**Cc:** Spenard, David (KYOAG); Hans, Jennifer (KYOAG); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov); [jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); Braun, Monica  
**Subject:** RE: Case No. 2012-00096 (KAW Northern Division Connection)  
**Importance:** High

Several of the staff have another call at 2:00 p.m. so call will need to conclude by 1:50 p.m. If those time restrictions are acceptable, Staff can participate in a conference call at 1 p.m. Commission Staff requests that KAWC arrange the call.

---

**From:** Ingram III, Lindsey [<mailto:L.Ingram@skofirm.com>]  
**Sent:** Friday, September 28, 2012 2:39 PM  
**To:** Wuetcher, Jerry (PSC)  
**Cc:** Spenard, David (KYOAG); Hans, Jennifer (KYOAG); [dbarberi@lexingtonky.gov](mailto:dbarberi@lexingtonky.gov); [jwalbourn@lexingtonky.gov](mailto:jwalbourn@lexingtonky.gov); Braun, Monica  
**Subject:** Case No. 2012-00096 (KAW Northern Division Connection)

Jerry:

I have been having discussions with David Spenard and Jennifer Hans about an issue that has arisen in the above-referenced case. We have agreed that we would like to advise Commission Staff of the issue and seek Commission Staff guidance on the issue because that may help simplify the evidentiary hearing that is set to occur on October 16. We're curious to know whether Wednesday, October 3 at 1 p.m. would work for a phone conference. If so, I would be glad to circulate toll-free dial-in information to everybody.

Lindsey W. Ingram III  
Stoll Keenon Ogden PLLC  
300 W. Vine St.  
Suite 2100  
Lexington, KY 40507  
859-231-3982 (direct dial)  
859-221-0997 (cell)  
859-246-3672 (direct fax)  
[L.ingram@skofirm.com](mailto:L.ingram@skofirm.com)