



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
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FRANKFORT, KY. 40602
(502) 564-3940

March 5, 1998

Mr. Kim Oatman
Trinity Engineers, Inc.
402 Industrial Road
Murray, Kentucky 42071-2104

Dear Mr. Oatman:

In your conversation of February 19, 1998 with Commission Staff, you stated that Todd County Water District ("Todd District") is considering extending its water distribution facilities into Muhlenberg County to serve approximately 40 customers whom Muhlenberg County Water District is unable to serve. You inquired about such expansion's effect on the composition of Todd District's Board of Commissioners.

Based upon the small number of prospective customers who reside in Muhlenberg County, the membership of Todd County Water District's Board of Commissioners should not be affected. Under KRS 74.020(1), a water district's extension into a neighboring county does not alter the composition of the water district's board of commissioners unless the extension is substantial. It provides:

- (b) **Except as provided in paragraph (c) of this subsection,** if a district formed in a single county extends its area to include territory in an adjacent county, as provided by KRS 74.115, the board of commissioners shall be appointed by the county judges/executive with the approval of the fiscal courts of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges/executive, with the approval of the fiscal courts, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner.

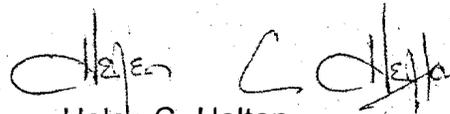
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- (c) If a single-county district administered as provided in paragraph (a) hereof shall acquire an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into another county, or if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, it may operate the distribution system so acquired, or extended, if the area served outside the county shall be deemed to be a minor portion of the total area served by the district, and if the fiscal court of the county containing the minor portion of the total area shall have agreed to the acquisition or to the extension of the distribution system. If less than twenty-five percent (25%) of the total assets of the distribution system are located within the county outside of the boundaries of the district, it shall be conclusively presumed that the district comes within the terms of this subsection.

Nothing in the facts that you have presented to Commission Staff indicates that, once the proposed expansion is completed, 25 percent of Todd County Water District's assets will be located in Muhlenburg County.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to Gerald Wuetcher, Commission counsel, at (502) 564-3940, Extension 259.

Sincerely,



Helen C. Helton
Executive Director

gw
cc: Renee Curry
Caryn Lee