



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

September 24, 1998

Hon. C. Michael Weldon
Burnam, Thompson, Weldon,
Simons and Dunlap, P.S.C.
Bank One Building, Suite 2A
116 West Main Street
P. O. Box 726
Richmond, Kentucky 40476-0726

Re: Southern Madison Water District
District's Use of Customer Deposits
KRS 278.460; 807 KAR 5:006, Section 7(6)

Dear Mr. Weldon:

This is in response to your inquiry regarding the District's use of the funds collected as customer deposits plus the accrued interest thereon. You ask specifically, "whether the funds held by the District as customer deposits can be utilized by the District to pay for construction and improvement of our service lines and the facility in general."

KRS 278.460 mandates that a water district pay interest on customer deposits at a rate not to exceed the rate of interest it receives, but not to exceed six percent (6%) annually. 807 KAR 5:006, Section 7(6), provides, in part: ". . . upon termination of services, the deposit, any principal amounts, and interest earned and owing shall be credited to the final bill with any remainder refunded to the customer."

In examining Kentucky law, Commission Staff can find no clear prohibitions against the use of funds collected as customer deposits plus interest for district purposes. But there is indication that the customer's deposit plus accrued interest is in the nature of a demand loan and that the relationship established between district and customer is one of debtor and creditor. With this in mind, the District should consider with care how it expends the funds. The District's financial status must be sufficiently sound to honor this type of debt on

Hon. C. Michael Weldon
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demand and appropriate accounting procedures should be followed regarding the use of such funds, specifically, this use should not be construed or accounted for as contributed capital. Acceptable accounting procedures of the Commission must be utilized.

This letter represents the Commission Staff's interpretation of the law as applied to the facts presented in your letter. This opinion is advisory in nature and not binding on the Commission should these issues be formally presented for Commission resolution. Should you have any questions concerning this opinion, please contact Dale Wright, Esquire, at (502) 564-3940.

Very truly yours,

A handwritten signature in black ink, appearing to read "Helen C. Helton". The signature is fluid and cursive, with a large initial "H" and "C".

Helen C. Helton
Executive Director

HCH:CDW:fb

BURNAM, THOMPSON, WELDON, SIMONS AND DUNLAP, P.S.C.
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August 31, 1998

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PUBLIC SERVICE
COMMISSION

Hon. Helen C. Helton
Executive Director
Kentucky Public Service Commission
730 Schenkel Lane
P. O. Box 615
Frankfort, KY 40602

Re: Southern Madison Water District
Interpretation of KRS 278.460; Customer Deposits

Dear Ms. Helton:

I represent Southern Madison Water District, a KRS Chapter 278 public utility, subject to your jurisdiction. The District has asked me for an opinion on an issue for which I find no clear, binding authority and I request that you provide us with the Commission's position on the following matter.

The District currently holds approximately \$76,500.00 in monies collected from its customers in the form of service deposits, including accrued interest. These monies are currently on deposit in the form of certificates of deposit and other commercial banking accounts. Considering the nature and growth of our customer base, we have every reason to be confident that we will not experience difficulty in honoring our obligation to refund customer service deposits as necessary. Accordingly, the District would like to utilize this sum of money to improve and extend our service lines and facilities, constituting a contribution to the capital of the District.

In reading KRS 278.460, I detect no specific requirement that these funds cannot be put to work extending the basic purpose of the District, providing potable water to as many rural customers as possible, however, that statute does peg the rate of interest which we must pay to our customers to that which "... it receives in interest ...". However, I note a citation to an opinion of the office of the Attorney General, no. 79-418 which states, *inter alia*, that "... in the absence of an expressed provision restricting the utility's use of the funds so deposited, the utility may use the money to suit its own convenience ...", as long as the utility remains cognizant of its obligation to refund deposits as demanded.

My specific question is whether the funds held by the District as customer deposits can be utilized by the District to pay for construction and improvement of our service lines and the facility in general.

Would you please give consideration to the foregoing and let me know if any further information would be necessary or helpful to assist you in arriving at a determination.

Very truly yours,

BURNAM, THOMPSON, WELDON,
SIMONS AND DUNLAP, P.S.C.

A handwritten signature in black ink, appearing to read 'C. Michael Weldon', with a large, stylized initial 'C' and a long, sweeping underline.

C. Michael Weldon

CMW:cq
6494

cc: Southern Madison Water District