



Paul E. Patton
Governor

COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KENTUCKY 40602
www.psc.state.ky.us
(502) 564-3940
Fax (502) 564-1582

Ronald B. McCloud, Secretary
Public Protection and
Regulation Cabinet

Helen Helton
Executive Director
Public Service Commission

December 20, 1999

John David Cole, Esq.
Cole, Moore & Baker
Post Office Box 10240
Bowling Green, Kentucky 42102-7240

Re: Warren County Water District
Proposed Construction of Office Building

Dear Mr. Cole:

Commission Staff is in receipt of your letter of November 4, 1999 regarding Warren County Water District's need for a certificate of public convenience to construct a new office building.

In your letter, the following facts were submitted: Warren County Water District ("Warren District") intends to construct a new office building. Warren District currently rents office space. The proposed office building would be located on property that Warren District currently owns. Estimated cost of the proposed building is \$1,328,835. Warren District proposes to finance this construction with reserve funds. Warren District will not issue any debt instruments to finance the proposed extension; nor is any adjustment of Warren District's rates proposed.

Your letter poses the following issue: Is Warren District required to obtain a certificate of public convenience and necessity for the proposed extensions?

KRS 278.020(1) provides:

No person, partnership, public or private corporation, or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010, **except** retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and **ordinary extensions of existing systems in the usual**



course of business, until such person has obtained from the Public Service Commission a certificate that public convenience and necessity require such construction. [Emphasis added.]

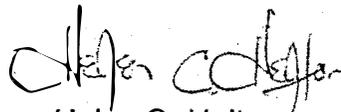
Administrative Regulation 807 KAR 5:001, Section 9(3) further provides:

Extensions in the ordinary course of business. No certificate of public convenience and necessity will be required for **extensions** that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general area in which the utility renders service or contiguous thereto, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers. [Emphasis added.]

Based upon the facts presented in your letter, Commission Staff is of the opinion that the proposed construction is not an extension in the ordinary course of business and requires a certificate of public convenience. The proposed construction does not extend any existing facility, but involves the construction a new facility. Moreover, the construction of office facilities to replace an existing office appears to be an unusual event. Your letter presents no facts to suggest that such construction is a normal occurrence for Warren District. Please note that the Commission has historically viewed the construction of utility offices as construction outside the ordinary course of business requiring a certificate of public convenience and necessity. See, e.g., Columbia Gas of Kentucky, Case No. 94-182 (Ky. P.S.C May 5, 1994); Henderson-Union RECC, Case No. 92-136 (Ky. P.S.C Nov. 2, 1992); Wood Creek Water District, Case No. 89-223, (Ky. P.S.C Aug. 15, 1989).

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