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February 29, 2000

Mr. Donta Evans
West Laurel Water Association
Post Office Box 726
London, Kentucky 40743

Re: McNew Road Water Main Extension

Dear Mr. Evans:

Commission Staff is in receipt of your letter regarding West Laurel Water Association's need for a certificate of public convenience to construct a new water line extension.

In your letter and in conversations between representatives of West Laurel Water Association ("West Laurel") and Commission Staff, the following facts were submitted: West Laurel intends to construct 870 feet of 3-inch water main along McNew Road in Laurel County, Kentucky. This main will serve only one customer. Given the general nature of the area, West Laurel does not expect any additional customers to connect to this main. Estimated cost of the proposed main extension is \$3,299. West Laurel intends to finance this main extension with a customer contribution and internally generated funds. In return for the prospective customer waiving his right to any refunds in the event future customers connect to the proposed water main extension, West Laurel has agreed to assume the cost of 100 feet of the proposed water main extension. West Laurel will not issue any debt instruments to finance the proposed extension, nor is any adjustment of West Laurel's rates proposed.

Your letter poses the following issue: Is West Laurel 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



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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.

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.

Based upon the facts presented in your letter, Commission Staff is of the opinion that the proposed construction is an extension in the ordinary course of business and will not require a certificate of public convenience and necessity. According to its Annual Report for Calendar Year 1998, West Laurel had net utility plant of \$4,181,768 as of December 31, 1998. The proposed construction, therefore, represents approximately .0008 percent increase in West Laurel's utility plant. Moreover, West Laurel currently has approximately 133 miles of mains of various sizes. The proposed extension represents an addition of less than .0013 percent of West Laurel's water mains.

Please note that West Laurel's proposal to limit the prospective customer's right to refunds when future customers connect to the proposed water main extension requires Commission approval. Administrative Regulation 807 KAR 5:066, Section 11(2)(a), states:

When an extension of the utility's main to serve an applicant or group of applicants amounts to more than fifty (50) feet per applicant, the utility may if not inconsistent with its filed tariff require the total cost of the excessive footage over fifty (50) feet per customer to be deposited with the utility by the

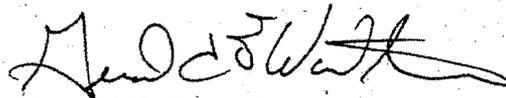
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applicant or the applicants, based on the average estimated cost per foot of the total extension.

Section 11(4), however, permits a utility to make extensions under different arrangements if such arrangements have received the Commission's prior approval. I have forwarded your letter to the Commission's Filings Division with a request that it be treated as an application for approval of the proposed arrangement.

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 me at (502) 564-3940, Extension 259.

Sincerely,



Gerald E. Wuetcher
Staff Attorney

cc: Filings Division