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**Commissioner**

March 30, 2000

Hon. Gary A. Chilton  
205 E. Woodford Street  
Lawrenceburg, Kentucky 40342-1168

Dear Mayor Chilton:

This letter responds to your electronic mail message of March 22, 2000 regarding certain practices of the Public Service Commission ("Commission").

Your message posed the following questions:

1. If the City of Lawrenceburg enters an agreement with the Frankfort Electric and Water Plant Board for the purchase of water, will the rates and service provisions of that agreement be subject to the Commission's jurisdiction?
2. Should the City of Lawrenceburg construct a new water treatment facility, will the facility's construction cost be considered when the Commission reviews any proposed adjustment in the rate that Lawrenceburg charges for wholesale water service to South Anderson Water District and Alton Water and Sewer District?

As to the first question, the Commission would not regulate the rates and service provisions of any water purchase agreement between the City of Lawrenceburg and the Frankfort Electric and Water Plant Board. Most municipal utility operations are exempt from Public Service Commission jurisdiction. See McClellan v. Louisville Water Company, Ky., 351 S.W.2d 197 (1961). As a result of the Kentucky Supreme Court's decision in Simpson County Water District v. City of Franklin, Ky., 872 S.W.2d 460 (1994), the Commission regulates the rates and service provisions of contracts between municipal utilities and public utilities for the provision of utility service. The Commission's authority does not extend to contracts for utility service between municipal utilities. Enclosed is a copy of the Commission's decision in Mount Sterling Water and Sewer Commission, Case No. 95-193 (Ky.P.S.C May 31, 1995), in which the



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Commission held that its jurisdiction does "not extend . . . to the rates which a municipally owned utility may assess to another municipally owned utility."

As to the second issue, the Commission, when establishing rates, is required to consider the cost of any facility that is used to provide the service rendered. The Commission, therefore, would consider the cost of the proposed water treatment facility and the extent to which that facility is used to provide service to Lawrenceburg's wholesale customers. The rates that the Commission establishes would be based upon an allocation of the facility's total cost to Lawrenceburg's wholesale customers.

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. Please direct any questions concerning this opinion to me at (502) 564-3940, Extension 259.

Sincerely,



Gerald E. Wuetcher  
Staff Attorney

Enclosure