



Paul E. Patton, Governor

**Ronald B. McCloud, Secretary
Public Protection and
Regulation Cabinet**

**Thomas M. Dorman
Executive Director
Public Service Commission**

**COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION**
211 SOWER BOULEVARD
POST OFFICE BOX 615
FRANKFORT, KENTUCKY 40602-0615
www.psc.state.ky.us
(502) 564-3940
Fax (502) 564-3460

**Martin J. Huelsmann
Chairman**

**Gary W. Gillis
Vice Chairman**

**Robert E. Spurlin
Commissioner**

February 6, 2002

Mr. William Jones
Pendleton County Water District
P.O. Box 232
Falmouth, Kentucky 41040

Mr. Roscoe Antrobus
East Pendleton Water District
P.O. Box 29
Falmouth, Kentucky 41040

Re: Pendleton County Water Main Extensions

Gentlemen:

Commission Staff is in receipt of your letter of December 20, 2001 regarding the need for a certificate of public convenience for certain new water line extensions planned for Pendleton County, Kentucky.

In your letter and in your conversations with Commission Staff, you presented the following facts: Pendleton County Fiscal Court intends to construct 10,536 linear feet of 8-inch polyvinyl chloride ("PVC") water main; 3,000 linear feet of 8-inch ductile iron water main; 3,437 linear feet of 6-inch PVC water main; 12,900 linear feet of 4-inch PVC water main; 24,708 linear feet of 3-inch PVC water main; and 2,500 linear feet of 3-inch ductile iron water main to extend certain Pendleton County Water District ("Pendleton District") and East Pendleton County Water District ("East Pendleton District") water mains. Upon completion of construction, Pendleton County Fiscal Court will transfer ownership of these water mains to the water districts. The estimated total cost of these water main extensions, including related appurtenances, is \$530,113.¹ The proposed construction will permit approximately 129 households to receive water service. Pendleton County Fiscal Court will finance the construction with a \$455,269

¹ Of the total planned extensions, approximately 7,087 linear feet of 6-inch PVC water main, 11,642 linear feet of 3-inch PVC water main and 3,950 linear feet of 4-inch PVC water main at a total cost of \$169,377 will be added to East Pendleton District's water distribution system. Approximately 10,536 linear feet of 8-inch PVC water main, 3,000 linear feet of 8-inch ductile iron water main, 13,066 linear feet of 3-inch PVC water main, 10,786 linear feet of 4-inch PVC water main, and 2,500 linear feet of 3-inch ductile iron water main, costing approximately \$360,736, will be added to Pendleton District's water distribution system.



Mr. William Jones
Mr. Roscoe Antrobus
February 6, 2002
Page 2

appropriation from the Kentucky State Treasury, and \$74,850 from meter charges.² Neither water district will issue any evidences of indebtedness or securities to finance any portion of the construction nor do they intend to adjust existing rates for water service. The proposed facilities will not provide water service in areas that other utilities are presently serving. Neither water district is presently providing water service in the areas that the proposed facilities are expected to serve.

Your letter poses the following issue: Is East Pendleton County Water District, Pendleton County Water District or Pendleton County Fiscal Court required to obtain a certificate of public convenience and necessity for the proposed extension?

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.

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.

² As a result of the proposed water main extensions, East Pendleton District will add 51 customers and Pendleton District will gain 78 customers. Based upon each water district's current meter charges, these new customers will pay a total of \$74,850 in meter charges.

Mr. William Jones
Mr. Roscoe Antrobus
February 6, 2002
Page 3

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 and necessity. According to their Annual Reports for Calendar Year 2000, Pendleton District and East Pendleton District had net utility plant of \$4,165,744 and \$1,537,284, respectively. The proposed construction, therefore, represents an increase of 8.7 percent in Pendleton District's utility plant and an 11 percent increase in East Pendleton District's utility plant. Such large increases in net utility plant cannot be considered as ordinary.

Commission Staff is of the opinion that Pendleton District and East Pendleton District are the appropriate parties to apply for a certificate as they will own and operate the facilities upon their completion. Pendleton County Fiscal Court is merely providing funding and administrative support for the proposed water main extensions and will not be responsible for these facilities' operation or management.

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, Assistant General Counsel, at (502) 564-3940, Extension 259.

Sincerely,



Thomas M. Dorman
Executive Director

cc: Hon. Henry Bertram
Don Willingham