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**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**

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Vice Chairman**

**Robert E. Spurlin
Commissioner**

March 21, 2002

**Mr. Kevin J. Brian
Quest Engineers
455 South Fourth Avenue
Louisville, Kentucky 40202**

Re: Meade County Water District System Improvements

Dear Mr. Brian:

Commission Staff is in receipt of your letters of February 26, 2002 and March 20, 2002 regarding the need for a certificate of public convenience and necessity for certain water system improvements for Meade County Water District. ("Meade District").

You present the following facts: Meade District proposes to construct a 300,000 gallon elevated water storage tank to replace an existing ground storage tank and to construct approximately 10.9 miles of 6- and 8-inch polyvinyl chloride ("PVC") water main. The estimated total cost of these improvements is \$750,235.¹ The proposed construction will enable between 60 and 120 additional households to receive water service. Meade District will finance the proposed construction with an appropriation from the Kentucky State Treasury. It will not issue any evidences of indebtedness or securities to finance the construction nor will it adjust existing rates for water service. The proposed facilities will not provide water service in areas that other utilities are presently serving.

Your letter poses the following issue: Is Meade District 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

¹ Estimated cost of the water storage tank is \$366,000. The proposed water main extension consists of 34,780 feet of 6-inch PVC water main and 23,037 feet of 8-inch PVC water main. Its estimated cost is \$384,235.



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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 not an extension in the ordinary course of business and requires a certificate of public convenience and necessity. According to its Annual Report for Calendar Year 2000, Meade District has net utility plant of \$4,878,350. The proposed construction, therefore, represents an increase of approximately 15.4 percent in Meade District's utility plant. Such an increase in net utility plant cannot be considered as ordinary.

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: David T. Wilson, Esq.
Jo Ann Thomas