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April 18, 2002

W. Randall Jones, Esq.
Rubin & Hays
Kentucky Home Trust Building
450 South Third Street
Louisville, Kentucky 40202-1410

Re: Pendleton County Water Main Extensions

Dear Mr. Jones:

Commission Staff is in receipt of your letter of April 15, 2002 requesting reconsideration of our opinion of February 6, 2002 regarding the need for a certificate of public convenience for certain new water line extensions planned for Pendleton County, Kentucky.

Based upon your letter of April 15, 2002 and the documents that Pendleton County Water District ("Pendleton District") and East Pendleton County Water District ("East Pendleton District") previously submitted, Commission Staff finds the following facts: Pendleton County Fiscal Court intends to construct 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 District and East Pendleton District water mains.¹ 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, engineering and legal costs and contingencies, is \$429,998.² The proposed construction will permit approximately 99 households to receive water service. Pendleton County Fiscal Court will finance the construction with a \$400,000 appropriation from the Kentucky State Treasury, and \$35,000 from meter

¹ Since the issuance of our letter of February 6, 2002, Pendleton County and the water districts have elected to delete a portion of the proposed project ("Bid Alternative 1").

² 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 \$183,214 will be added to East Pendleton District's water distribution system. Approximately 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 \$251,786, will be added to Pendleton District's water distribution system.



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charges.³ 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.

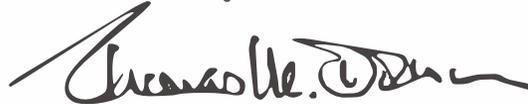
³ The Estimated Project Budget, which is enclosed in your letter, states that meter charges will generate only \$35,000 in revenues. Commission Staff's projections indicate a higher amount of revenue generated from these fees. As a result of the proposed water main extension, East Pendleton District will add 51 customers and Pendleton District will gain 48 customers. Based upon each water district's current meter charges, these new customers will pay a total of \$53,394 in meter charges.

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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 does not require a certificate of public convenience and necessity. According to their Annual Reports for Calendar Year 2001, Pendleton District and East Pendleton District had net utility plant of \$4,988,510 and \$2,488,949, respectively. The proposed construction, therefore, represents an increase of 5 percent in Pendleton District's net utility plant and an 7.36 percent increase in East Pendleton District's net utility plant. Moreover, the proposed construction will not significantly increase either utility's operating expenses nor significantly decrease either utility's net revenues.⁴

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: William Jones
Roscoe Antrobus
Don Willingham

⁴ Assuming a 20-year service life for the proposed facilities, Pendleton District will incur increased operating expenses of \$12,589 annually, an increase of 1.7 percent over 2001 utility operating expenses. Assuming 48 customers are added to Pendleton District's system as a result of the construction, the water district will experience at minimum additional annual revenues of \$8,709. East Pendleton District will incur increased operating expenses of \$9,160 annually, an increase of 1.6 percent over 2001 utility operating expenses. Assuming 51 customers are added to East Pendleton District's system as a result of the construction, the water district will experience at a minimum additional annual revenues of \$10,771.