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March 18, 2011

Mr. David Moore
Henderson County Water District
P.O. Box 655
Henderson, Kentucky 42234

Re: Henderson County Water District **PSC STAFF OPINION 2011-004**
Purchase and Installation of Radio Read Meters

Dear Mr. Moore:

Commission Staff acknowledges receipt of your letter of March 1, 2011 in which you requested on behalf of Henderson County Water District ("Henderson District") an opinion regarding the need for a certificate of public convenience and necessity for the purchase of radio read meters.

Based upon your letter, Commission Staff understands the facts as follows:

Henderson District, a water district organized pursuant to KRS Chapter 74, provides water service to 6,340 customers in the Kentucky counties of Henderson and Webster. Its Board of Commissioners recently voted to investigate the purchase and installation of radio read meters as an economy measure. While the water district is considering the replacement of all of its water meters with radio read meters, it intends to initially purchase 308 meters as a test. Henderson District estimates that the initial purchase cost to be approximately \$70,000. This cost will include the cost of computer equipment and software that is capable of performing automated meter reading for Henderson District's entire system. Henderson District will finance this cost with internal funds. It will not require a rate adjustment or the issuance of any evidences of indebtedness to finance the proposed purchase and installation.

Your letter presents the following question: Must Henderson District obtain a certificate of public convenience and necessity for the proposed project?

KRS 278.020(1) provides:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or 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 that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or 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.

Under the method of analysis that Commission Staff has historically employed, the proposed purchase and installation of radio read meters appears to be in the ordinary course of business and will not require a certificate of public convenience and necessity.¹ According to its Annual Report, Henderson District currently has total utility plant of \$18,345,363.² The proposed purchase and installation of radio read meters represents an increase in Henderson District's total utility plant of 0.38 percent. Such an increase in total utility plant is considered as ordinary. See, e.g., *City of Covington v. Board of Commissioners of Kenton County Water District No. 1*, 371 S.W.2d 20 (Ky. 1963). Moreover, as the funding for the proposed purchase and installation will not require the issuance of additional debt or any adjustment in rates, the proposed purchase and installation does not appear to materially affect Henderson District's existing financial condition.

¹ The Commission has previously held that the purchase and installation of radio read meters on a system-wide basis requires a certificate of public convenience and necessity. See, e.g., Case No. 2007-00014, *Big Sandy Water District* (Ky. PSC April 3, 2007).

² *Annual Report of Henderson County Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2010*, at 7.

Recent legislative action further supports Commission Staff's position that the proposed purchase and installation does not require a certificate of public convenience and necessity. In its 2010 extraordinary session, the Kentucky General Assembly enacted legislation that provides:

Water Districts and Water Associations: A water district created pursuant to KRS Chapter 74 and a water association formed under KRS Chapter 273 that undertakes a waterline extension or improvement project shall not be required to obtain a certificate of public convenience and necessity, notwithstanding KRS 278.020(1), if the water district or water association is a Class A or B utility as defined in the Uniform System of Accounts established by the Public Service Commission, pursuant to KRS 278.220, as the system of accounts prescribed for utilities in Kentucky, and either: (a) The water line extension or improvement project will not cost in excess of \$500,000; or (b) The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring Public Service Commission approval pursuant to KRS 278.300. In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers.

2010 Ky. Acts 1st Spec. Sess. Ch. 1.

Since the proposed purchase and installation does not cost in excess of \$500,000 or require Henderson District to incur obligations requiring Commission approval pursuant to KRS 278.300, the Act exempted the proposed purchase and installation from the requirement to obtain a certificate of public convenience and necessity. As Henderson District had annual revenues in calendar year 2010 of \$2,762,935, it is a Class A water utility³ and falls within the class of water utilities subject to the exemption.

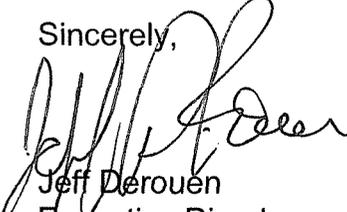
This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution.

³ The Kentucky Public Service Commission's Uniform System of Accounts defines a Class A water utility as a utility "having annual water operating revenues of \$750,000 or more." *Uniform System of Accounts for Class A and B Water Districts and Associations* at 14 (2002) (found at <http://psc.ky.gov/agencies/psc/forms/usoa/0700ab02.pdf>).

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Questions concerning this opinion should be directed to Gerald Wuetcher,
Executive Advisor/Attorney, at (502) 564-3940, Extension 259.

Sincerely,



Jeff Derouen
Executive Director