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November 25, 2013

Mr. Billy Harper  
North Logan Water District  
3118 Lewisburg Road  
Russellville, Kentucky 42276

**PSC STAFF OPINION 2013-017**

Re: Purchase of Wireless Meters and Radio Read Water Meter System

Dear Mr. Harper:

Commission Staff acknowledges receipt of your letter of October 17, 2013, on behalf of North Logan Water District in which you requested an opinion regarding the purchase of a radio read water meter system. This opinion represents Commission Staff's interpretation of the law as applied to the facts presented, is advisory in nature, and is not binding on the Public Service Commission should the issues be formally presented for Commission resolution.

Commission Staff understands the facts as follows:

North Logan Water District ("North Logan"), a water district organized pursuant to KRS Chapter 74, owns and operates water distribution facilities in Logan County that serve approximately 556 customers.<sup>1</sup>

North Logan proposes to purchase a radio read meter system at a cost of \$135,460 to replace its existing metering system. The proposed purchase will include replacement of all existing meters and all necessary computing equipment and software. Under the proposed purchase arrangement, North Logan will be required to pay an annual service fee of \$1,500. North Logan advertised for and received bids for the

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<sup>1</sup> Annual Report of North Logan Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2012 ("Annual Report") at 5, 27.

proposed purchase. It proposes to purchase the meters and associated services from Construction Site Services, LLC.

North Logan will not adjust its rates for water service as a result of the proposed purchase. It will not issue any debt to finance the purchase, but proposes to use internal funds. North Logan estimates an annual savings of over \$19,000 as a result of the meter replacement.

Your letter presents the following issue: Does North Logan require a certificate of public convenience and necessity to purchase and install the new metering system?

KRS 278.020(1) provides as follows:

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. . .

807 KAR 5:001, Section 15(3) provides:

A certificate of public convenience and necessity shall not 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 or contiguous area in which the utility renders service, 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.

The Commission has previously held that a “[l]arge scale replacement of existing metering system with automated meter reading equipment constitutes an extension of service that may require a Certificate of Public Convenience and Necessity.”<sup>2</sup>

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<sup>2</sup> Case No. 2007-00014, *Application of the Big Sandy Water District for an Order Approving the Issuance of Securities Pursuant To KRS 278.300* (Ky. PSC Apr. 3, 2007) at 3.

According to its 2012 Annual Report, North Logan has a net utility plant of \$1,346,894.<sup>3</sup> As the cost of the proposed purchase and installation of the meters is \$135,460, the proposed replacement represents an addition of more than ten percent to North Logan's net utility plant.<sup>4</sup> Commission Staff is of the opinion that, given the size of increase in North Logan's net utility plant that the proposed replacement represents, the proposed replacement materially affects the water utility's financial condition, is not an extension in the ordinary course, and requires a certificate of public convenience and necessity. This position is supported by several Commission decisions in which certificates were required for the installation of metering equipment that constituted a much smaller percentage of the applicant water utility's net utility plant than is present in this case.<sup>5</sup>

In its 2012 General Session, the Kentucky General Assembly enacted the legislation that further defines when a certificate is required. It 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 \$500,000.00; 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

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<sup>3</sup> *Annual Report* at 7.

<sup>4</sup>  $\$135,460 \div \$1,346,894 = 0.0998$ .

<sup>5</sup> Case No. 2012-00077, *Application of Crittenden- Livingston Water District for Authority to Enter Into a Loan Agreement with the Kentucky Infrastructure Authority and for a Certificate of Convenience and Necessity to Acquire and Install Automated Meter Reading Equipment* (Ky. PSC Mar. 30, 2012) (net utility plant increase of 1.4 percent); Case No. 2009-00272, *Application of the Madison County Utilities District for a Certificate of Public Convenience and Necessity to Purchase an Automated Meter Reading System and Approval of Financing for Automated Meter Reading System* (Ky. PSC June 8, 2010) (net utility plant increase of 3.4 percent); Case No. 2009-00238, *Application of the Grayson County Water District for a Certificate of Public Convenience and Necessity to Construct and Finance a Water Improvements Project Pursuant to KRS 278.020 and 278.300* (Ky. PSC Dec. 10, 2009) (net utility plant increase of 1.8 percent); Case No. 2008-00119, *Application of Northern Kentucky Water District for Approval of Construction and Issuance of a Certificate of Convenience and Necessity for the Purchase and Installation of Automated Meter Reading Equipment* (Ky. PSC July 29, 2008) (net utility plant increase of 3.0 percent); Case No. 2007-00014, *Application of the Big Sandy Water District for an Order Approving the Issuance of Securities Pursuant to KRS 278.300* (Ky. PSC Apr. 3, 2007) (net utility plant increase of 4.7 percent).

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.<sup>6</sup>

While North Logan is a Class B Water District,<sup>7</sup> the proposed installation of the metering equipment does not qualify under the Act for an exemption. The proposed facilities are not "a waterline extension or improvement project" as they do not extend or improve an existing waterline.

In your letter, you requested that, should Commission Staff determine that North Logan must obtain a certificate of public convenience and necessity, your letter and its accompanying documents be considered an application for such certificate. As your letter does not meet the requirements of 807 KAR 5:001, I regret to advise you that your letter cannot be accepted as an application for a certificate.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. Questions concerning this opinion should be directed to Ann Ramser, Staff Attorney, at (502) 782-2585. If North Logan requires assistance in the preparation of an application for a certificate, please contact Gerald Wuetcher, Executive Advisor, at (502) 782-2590.

Sincerely,



Jeff Derouen  
Executive Director

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<sup>6</sup> 2012 Ky. Acts. Ch. 265.

<sup>7</sup> The Kentucky Public Service Commission's Uniform System of Accounts defines a Class B water utility as a utility "having annual water operating revenues of \$250,000 or more but less than \$750,000." 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>). For the calendar year ending December 31, 2012, North Logan has water operating revenues of \$423,749. *Annual Report* at 11.