



Paul E. Patton, Governor

**Janie A. Miller, 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**

July 17, 2002

Mr. John Hughes
Attorney at Law
124 West Todd Street
Frankfort, Kentucky 40601

Re: Utilities of KY (Aqua/KWS)
Flash-Mixer & Flocculator Replacement

Dear Ms. Evans:

This is in response to your letter received June 25, 2002, regarding your water system improvements. You have requested an opinion on whether there is a need to obtain prior Commission approval for the extension pursuant to KRS 278.020 & 807 KAR 5:001, Section 9.

Staff has reviewed the information and is of the opinion that prior Commission approval is not needed. We concur with your position that the new improvement is, pursuant to 807 KAR 5:001, Section 9(3), in the ordinary course of business. However, the proposed construction may include fire hydrants. When fire hydrants are installed on jurisdictional water utility systems, the fire hydrants must be certified by a licensed engineer pursuant to 807 KAR 5:066, Section 10(2)(b) or the fire hydrants may not be installed. Staff will retain the information for our files.

Additionally, please notify us when the construction project is completed. If you have any questions, you may contact George Wakim of our Engineering Staff at the above address.

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, Commission counsel.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas M. Dorman".

Thomas M. Dorman
Executive Director

TMD:GW:kle



JOHN N. HUGHES
Attorney at Law
Professional Service Corporation
124 WEST TODD STREET
FRANKFORT, KENTUCKY 40601

Telephone:
(502) 227-7270

June 25, 2002

RECEIVED

JUN 25 2002

PUBLIC SERVICE
COMMISSION

Telecopier:
(502) 875-7059

Thomas M. Dorman
Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

Re: Utilities of Kentucky (Aqua/KWS)

Dear Mr. Dorman:

In Case 8370-1, Kentucky Water Service was authorized to impose a surcharge on its rates for the as a result of an increase in rates from its wholesale supplier Fern Lake Company. Kentucky Water Service (Aqua/KWS) has been collecting the surcharge and has accumulated a current balance in that account of approximately \$81,894.85. See attached UKI balance sheet.

There is also a balance in the bank account where the funds are maintained of approximately \$60,354.00. This represents accumulation of interest on the account. Because the account information was not provided to Aqua/KWS previously, it was not known until last week that interest had accrued on the deposits. Aqua/KWS believed that its surcharge calculation would closely approximate the final payment, which it does. (\$81,894 surcharge account; \$76,200 final payment).

The final payment on the loan that necessitated this surcharge will be made in December of this year. That payment will be \$75,000, plus a trustee fee of \$1,200.00. That leaves a balance in the account of approximately \$66,000. (\$60,354.00 + \$81,894 - \$75,000 - \$1,200 = \$66,084). See attached letter from USBANK.

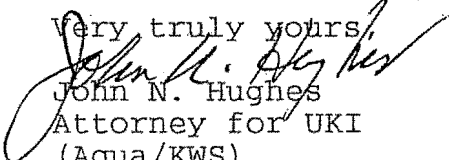
Re: Because of the accumulated surplus, collection of the surcharge has been suspended. Aqua/KWS requests that it be allowed to use the remaining surplus for an urgent replacement of its flash-mixer and flocculator. As the attached information shows, the total estimated costs of this project is \$64,200. Aqua/KWS believes that this project is in the ordinary course of business and no certificate of convenience and necessity is required. It will not compete with any other utility, it will not materially affect the financial condition of the company, it will not require a rate increase and it is a repair or replacement of existing facilities, similar to those which have been previously determined to be ordinary projects. (See attached order dated December 7, 1989).

Replacement

As the attached statement from Aqua/KWS indicates, this project is needed to protect the quality of water due to inadequate functioning of this equipment. Because of the type and small size of the project, no engineering plans or specifications have been prepared.

For these reasons, Aqua/KWS requests that it be allowed to use the excess surcharge funds resulting from interest on the account for the purpose of replacing existing equipment that no longer functions adequately and that the project be determined to be in the ordinary course of business.

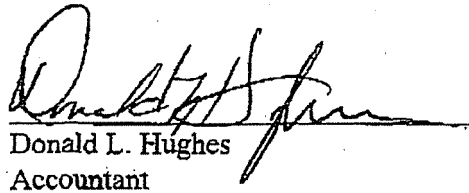
If additional information is needed, please contact me.

Very truly yours

John N. Hughes
Attorney for UKI
(Aqua/KWS)

6/24/02

J. David Whitehouse, Executive V.P.
Aqua/KWS
1081 Dove Run Road, Ste 202
Lexington, Ky. 40502

As indicated on the attached balance sheet., the liability for the Fern Lake surcharge as of this date is \$81,894.85.

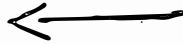

Donald L. Hughes
Accountant

11:04 AM

402
ual Basis

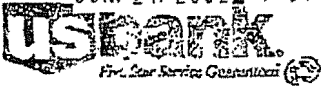
**Utilities of Kentucky
Balance Sheet
As of June 24, 2002**

	<u>Jun 24, 02</u>
Total Lexington Fixed Assets	10,000.00
Middlesboro Fixed Assets	
Accumulated Depreciation	-2,090,744.55
M'boro-Land & Land Rights	2,671.03
M'boro-Struct & Improv Sludge	328,153.06
M'boro-Electric pump equip	194,242.01
M'boro-Purification system	344,354.34
M'boro-Distr Reser. & Standpi	505,375.32
M'boro-Trans & Distr Mains	2,101,901.18
M'boro-Meters	536,572.60
M'boro-Hydrants	129,343.47
M'boro-Off furn & equip	53,190.24
M'boro-Transportation equip	3,122.92
M'boro-Tools, Shop, & equip	45,952.02
M'boro-Lab equipment	29,151.79
M'boro-Power oper equip	35,856.83
M'boro-Communications equip	45,322.34
M'boro-Misc equipment	12,226.94
Total Middlesboro Fixed Assets	2,276,691.52
Total Fixed Assets	3,379,769.79
TOTAL ASSETS	5,407,559.97
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	
M'boro A/P	15,328.72
Clinton A/P	5,023.34
Lexington A/P	35.28
Total Accounts Payable	20,387.34
Taxes Payable	
M'boro-Sales Tax	1,869.24
M'boro-Bell Co. School Tax	-18.65
Clin-Hickman Co. Tax	5,213.86
Total Taxes Payable	7,064.45
Total Accounts Payable	27,451.79
Other Current Liabilities	
M'boro-Fern Lake Surcharge	81,894.85
Clin-Bldg Note Payable	23,000.00
Accrued Int on L.T. Debt	
Interest on L.T. Debt	79,000.00
Total Accrued Int on L.T. Debt	79,000.00
Customer Adv for Construction	
M'boro-Cust Adv for Const	34,441.94
Clin-Customer Adv for Constr	41,611.30
Total Customer Adv for Construction	76,053.24
Customer Deposits	
M'boro-Customer deposits	55,537.51
M'boro-Acc Int on Cust Dep	12,546.77
Clin-Customer deposits	1,207.02
Clin-Acc Int on Cust Dep	4,531.57
Total Customer Deposits	73,822.87
Inter-Company A/P	
Wages paid by USU	263,469.91
Funds from USU	98,000.00



JUN. 24. 2002 7:57AM FIRSTAR CORP TRUST

NO. 4181 P. 1



Corporate Trust Services
425 Walnut Street
CN-WN-06CT
Cincinnati, OH 45202

Trust Services Group
425 Walnut Street
ML 064WN06CT 6th Floor
P. O. Box 1115
Cincinnati, Ohio 45201-1115

William H. Sicking
Vice President and Trust Officer
(513) 632-4278
Fax: (513) 632-5511

June 24, 2002

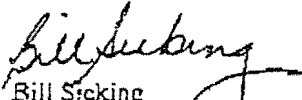
J. David Whitehouse
Utilities of Kentucky/Aqua KWS Inc.
1081 Dove Run Road
Suite 202
Lexington, KY 40502
Via Fax 859-268-4850

Re: CITY OF MIDDLESBORO IND BLDG REF REV BD (FERN LAKE COMPANY)

Dear David:

Attached to this letter is the final principal and interest payment that is to be made on the above listed bond issue. It shows Principal coming due on December 1, 2002 in the amount of \$75,000.00 and interest for the period of June 1, 2002 to November 30, 2002 in the amount of \$2,325.00. In the Trust Account where the monthly deposits are made and debt service payments are disbursed to pay the Bondholders, there is a balance in the amount of \$60,354.83 as of June 24, 2002. Our Trustee fees in the amount of \$1,200.00 will need to be deducted from this balance in December 2002. The Interest that this account is earning is 1.04% on the 30-day yield. The rate on this Money Market Fund changes daily and this rate is as of June 21, 2002. If you have any additional questions, I would recommend that you call Lisa Peterson at 513-632-2032, as she is your account officer on this account.

Respectfully Yours,


Bill Sicking
Vice President & Trust Officer
513-632-4278

enclosures

cc: Lisa Peterson

HOLDINGS LIST PRICED AS OF: 6/21/02

12-4121 KY MIDDLESBORO IER REF BDFD 94-FERN CASH BASIS
COMMAND ==> CITY OF MIDDLESBORO IND BLDG REF REV BD (FERN LAKE COMPAN

SECURITY DESCRIPTION	P	ANNUAL INC/ UNREAL G/L	CURR YIELD
S SHARES/PV MARKET VALUE FEDERAL COST %MKT			
<u>SHORT TERM INV FDS-TAXABLE</u>			
FIRST AMERICAN U S TREAS REV FD CL A 31846V716	1	604	
60,354.8300 60,354.83 60,354.83 100.0		0	1.0

INVESTMENTS 60,354.83 60,354.83 100.0		604	1.0
		0	
PRINCIPAL CASH 0.00 0.00			
TOTAL 60,354.83 60,354.83			
INCOME CASH 0.00			

F1-HELP F2-HINT F3-END F4-SKIP F5-REFIND F6-PRINT F7-UP F8-DOWN F10-LEFT

REG PRIN	BRR PRIN	REG INT	BRR INT	RG CALL PM	BR CALL PM	PAYDOWNS
-----12/01/2002 Payment-----						
** Total of all Issues for 12/01/2002 Payment **						
75000.00		2325.00		0.00		0.00
*** TOTALS OF ALL PAYMENTS FOR LOAN ***						
75000.00		2325.00		0.00		0.00

< schedule does not include debt service for intraperiod calls >

Enter Next Activity OR * To Schedule ACTIVITY

Middlesboro, KY Water Plant

Replacement of the Flash-Mixer & Flocculator

Flash-Mixer:

The water plant was placed in service in 1964. The original flash-mixer was under sized for the plant up-grade in 1978 but was left in the plant. This unit has been rebuilt several times and now needs replacing. The mixer is only operated during turbidity events because of its condition.

The estimated cost of a new unit installed is \$18,750.00

Flocculator:

The flocculator is the plants original unit. It is a Dor-Oliver ribbon flocculator, most plants replaced these unit many year ago. This unit now requires monthly maintenance. By replacing this unit the plant could improve the water quality. Due to the design of the plant, small floc particles must be maintained into the settling basin, at present the plant can't do this. The velocity of the water into the settling basins shear large floc particles and caused carry over onto the filters. This results in inefficient settling and removal of organics in the water. This modification will enhance removal of THM's & HAA's in the finished water.

Estimated cost \$45,450.00

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF AQUA CORPORATION)
FOR AN EXPEDITED ORDER GRANTING A)
CERTIFICATE OF CONVENIENCE AND NECESSITY)
AND APPROVING FINANCING. IN THE) CASE NO. 89-307
ALTERNATIVE, A REQUEST FOR AN ORDER)
DECLARING THE PROJECT TO BE IN THE)
ORDINARY COURSE OF BUSINESS)

INTERIM ORDER

On October 26, 1989, Aqua Corporation ("Aqua") filed an application for a Certificate of Public Convenience and Necessity to make improvements to its water distribution system, and for approval of its plan of financing for this project. In the alternative, Aqua requested that the project be considered in the ordinary course of business to eliminate the need for a certificate filing. Aqua further requested a deviation from 807 KAR 5:001 requirements to the extent necessary in order to allow expedited review of the application due to the nature of the emergency which necessitated the filing.¹

¹ Petition of Aqua Corporation, at page 1: "This is in the nature of an emergency, because two of the three water transmission lines from the water supply source servicing Middlesboro are inoperable and because the possibility exists that water service could be disrupted if the currently operational line malfunctions. The Petitioner seeks an emergency, expedited order to begin the construction."

After a review of the application and other matters of record and being otherwise sufficiently advised, the Commission finds that:

1. Aqua's proposed construction project consists of approximately 3,160 linear feet of 16-inch diameter pipe to replace two water lines damaged by recent earth slippage. It also includes 1,100 linear feet of 6-inch diameter water line to serve six customers.

2. Aqua's proposed construction would be classified as a maintenance/replacement project and as a small extension project. As such these projects should be considered in the ordinary course of business.

3. Construction projects which are in the ordinary course of business do not require a Certificate of Public Convenience and Necessity.

4. Aqua proposes to finance the construction through a \$150,000 loan from Liberty National Bank and Trust Company. However, there is a difference of \$26,093 between the proposed loan amount and total construction costs of \$123,907. Aqua should therefore file information indicating the specific purposes for which the additional \$26,093 will be used within 14 days of the date of this Order, and explain why these purposes are necessary or appropriate for or consistent with the proper performance by Aqua of its service to the public. In addition, Aqua should indicate the specific assets which will secure the proposed loan.

5. Aqua's requested deviation from the filing requirements of 807 KAR 5:001 has not been supported by an adequate showing of


good cause. Aqua should file a statement within 14 days of the date of this Order supporting its request to deviate from filing financial information for a period within 90 days of the filing date.

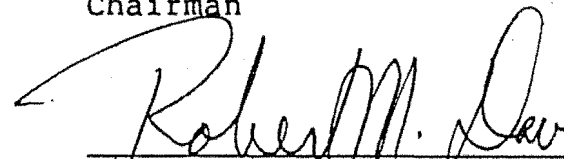
IT IS THEREFORE ORDERED that:

1. A Certificate of Public Convenience and Necessity is not required for the construction projects proposed by Aqua.
2. Aqua shall file the information requested herein within 14 days of the date of this Order. Once the required information is submitted, Aqua's proposed plan of financing shall be addressed pursuant to KRS 278.300 by subsequent Order.

Done at Frankfort, Kentucky, this 7th day of December, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:

Executive Director