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June 10, 2002

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

Re: Big Sandy Water District

Dear Mr. Jones:

Commission Staff is in receipt of your letter of May 23, 2002 regarding the need for a certificate of public convenience for the construction of a water storage tank in Lawrence County, Kentucky.

Based upon your letter of May 23, 2002, Commission Staff finds the following facts: Big Sandy Water District proposes to construct a 40,000 gallon water storage tank in Lawrence County, Kentucky to alleviate pressure problems. The estimated total cost of this tank and the necessary appurtenances and telemetry is \$57,000. Big Sandy Water District will finance the construction with internal funds. It will not issue any evidences of indebtedness or securities to finance the construction nor does it intend to adjust its existing rates for water service. Big Sandy Water District estimates that the proposed plant will increase its annual operating expenses by \$720.

Your letter poses the following issue: Is Big Sandy Water 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 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



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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 will not materially affect Big Sandy Water District's financial condition, is an extension in the ordinary course of business, and does not require a certificate of public convenience and necessity. According to its Annual Report for Calendar Year 2001, Big Sandy Water District had net utility plant of \$8,003,673. The proposed construction, therefore, represents an increase of 0.7 percent in Big Sandy Water District's net utility plant. Moreover, the proposed construction will not significantly increase the utility's operating expenses.¹ It will not require an adjustment in the utility's rates or the issuance of new debt instruments.

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

¹ Assuming a 20-year service life for the proposed facilities, Big Sandy Water District will incur increased operating expenses of \$3,570 (depreciation expense of \$2,850 plus operating and maintenance expenses of \$720) annually, an increase of 0.3 percent over 2001 utility operating expenses.