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**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**

August 28, 2002

Ms. Georgia Livingood  
Nicholas County Water District  
1639 Old Paris Road  
Carlisle, Kentucky 40311

Dear Ms. Livingood:

This letter responds to your inquiry regarding the use of a publication that has no paid circulation to publish a notice that is required to be published in a newspaper.

Based upon its review of KRS 424.120, Commission Staff is of the opinion that a newspaper that has no paid circulation may not be used to publish a legal notice. KRS 424.120 establishes the qualifications of newspapers in which a legal notice must be published. Section 1(b) provides:

[The newspaper] shall be of regular issue and have a bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty (50) weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding two (2) year period. A newspaper meeting all the criteria to be of regular issue, except publication in the area for the immediately preceding two (2) year period, shall be deemed to be of regular issue if it is the only paper in the publication area and **has a paid circulation** equal to at least ten percent (10%) of the population of the publication area. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and **maintains a definite price or consideration not less than fifty percent (50%) of its published price, and is paid for by not less than fifty percent (50%) of those to whom distribution is made [emphasis added];**



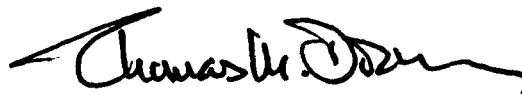
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The statute clearly provides that a newspaper is qualified to publish legal notices only if it has paid circulation. A newspaper without any paid circulation does not meet the statutory qualifications and publication of any notice in such newspaper will not be deemed to have met the statutory requirements for publication of notice.

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 PSC 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,

A handwritten signature in black ink, appearing to read "Thomas M. Dorman", with a long, sweeping underline.

Thomas M. Dorman  
Executive Director