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Commissioner

June 26, 2008

Mr. Chris Wilcutt
McGhee Engineering, Inc.
Post Office Box 267
Guthrie, Kentucky 42234

Re: South Logan Water Association
2008 System Extension Project

Dear Mr. Wilcutt:

Commission Staff acknowledges receipt of your letter of June 4, 2008 in which you request an opinion regarding the need for a certificate of public convenience and necessity for a water distribution main extension in Logan County, Kentucky.

Based upon your letter and your telephone conversation with Commission Staff, Commission Staff understands the facts as follows:

South Logan Water Association, a water association organized pursuant to KRS Chapter 273, provides water service to 1,632 customers in Logan County, Kentucky. It proposes to install approximately 2,000 linear feet of 6- and 8-inch polyvinylchloride ("PVC") water main. No additional customers will be added as a result of the proposed extension. Total estimated construction cost of the project is \$75,000. The total project cost, including legal and engineering fees and other contingencies is estimated to be \$100,000. South Logan Water Association plans to publish requests for proposals on June 10, 2008, to receive proposals no later than June 26, 2008, and to begin construction in mid-July 2008.

South Logan Water Association will finance the cost of the project with approximately \$30,000 remaining from a previous Kentucky Infrastructure Authority grant and approximately \$70,000 from internal funds. The proposed construction will not require a rate adjustment. South Logan Water Association will not issue any evidences of indebtedness to finance the proposed construction.

Your letter presents the following question: Must South Logan Water Association 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.

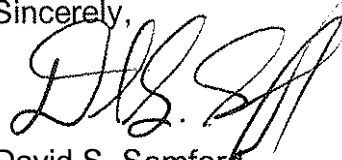
Under the method of analysis that Commission Staff has historically employed, the construction of the proposed water distribution main upgrade appears to be in the ordinary course of business and would not require a certificate of public convenience and necessity. According to its Annual Report, South Logan Water Association had net utility plant of \$3,871,656.¹ The proposed water distribution main upgrade represents an increase in South Logan Water Association's net utility plant of 2.59 percent. Such a small increase in net 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 funds for the proposed construction will come from outside sources and will not require the issuance of additional debt or any adjustment in rates, the proposed construction does not appear to materially affect South Logan Water Association's existing financial condition.

¹ Annual Report of South Logan Water Association to the Kentucky Public Service Commission for the Year Ended December 31, 2007, at 7.

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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,

A handwritten signature in black ink, appearing to read "D.S. Samford", written over a horizontal line.

David S. Samford
General Counsel

cc: South Logan Water Association