

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION OF EXISTING WATER) ADMINISTRATIVE
DISTRIBUTION MAIN EXTENSION POLICIES) CASE NO. 386

O R D E R

Kentucky Rural Water Association (“KRWA”) has moved to narrow the scope of the Commission’s Order of November 2, 2000 and for a grant of limited immunity to all responding utilities. Having considered the motion, we find that the scope of the interrogatories set forth in our Order of November 2, 2000 should be limited to the period from 1997 through 1999 and that limited immunity should be extended to all responding utilities. By this Order, we further clarify the interrogatories set forth in the Order of November 2, 2000, extend the time in which to respond to those interrogatories, and provide for alternative methods of responding.

In our Order of November 2, 2000, the Commission directed all water utilities to file certain information regarding their water main distribution extension practices and their position on possible revisions to Administrative Regulation 807 KAR 5:066, Section 11. More specifically, we directed all water utilities to provide detailed information about all water main extensions between 1995 and 1999, including all funding sources and customer contributions.

KRWA contends that the Commission’s interrogatories are overly burdensome and will not lead to the discovery of information relevant to the efficacy of Administrative

Regulation 807 KAR 5:066, Section 11. It asserts that the focus of this proceeding is to determine whether the existing regulation impedes reasonable extensions of water service in Kentucky. It notes that the regulation does not address water distribution main extensions that are financed through governmental loans and grants and, therefore, information regarding such extensions is not necessary to the Commission's investigation. "The focus of this administrative case should be the relatively short water line extensions routinely constructed by utilities in the ordinary course of business for which no Certificate of Convenience and Necessity is required." KRWA Motion at 3.

KRWA requests that the Commission limit the scope of information sought in Interrogatories 1, 2 and 3 to water distribution main extensions financed solely or primarily through customer contributions and not require any information involving government-financed projects. In the alternative, it moves that the Commission modify the Order of November 2, 2000 to eliminate Interrogatories 2 and 3. Following a review of all responses to the remaining interrogatories, KRWA submits, the Commission can pose Interrogatories 2 and 3 in a subsequent Order should we find the information is necessary. KRWA further requests that the Commission narrow the scope of Interrogatories 1, 2 and 3 to the period from 1997 to 1999.

We find that the purpose of this investigation would not be served by eliminating Interrogatories 2 and 3 or by restricting the scope of Interrogatories 1, 2 and 3 solely to those water distribution main extensions that are financed solely through customer contributions. In our Order of November 2, 2000, we stated that the goal of this proceeding is "to ensure that our regulatory policies encourage reasonable extensions of water service in Kentucky and fairly and equitably allocate the cost of such

extensions.” To determine the effect of our current regulation on water main distribution extensions, we must have a clear picture of all water main distribution extensions. We must know how water utilities are financing water main distribution extensions and the extent to which water distribution main extensions are funded through customer contribution.

Moreover, we do not accept KRWA’s argument that production of the requested information regarding government-financed water distribution main extensions is unduly burdensome. Our review of the Commission’s docket reveals that most water utilities have constructed only a small number of water distribution main extensions that are financed with government funding during the 5-year period in question. To qualify for such funding, the water utilities have, in virtually every instance, been required to prepare a detailed engineering report for the lending agency. The requested information, therefore, should be readily available to all water utilities.

The Commission is not unmindful of the quantity of information that must be produced to comply with our Order of November 2, 2000. To reduce the burden placed upon all water utilities, we find that the scope of Interrogatories 1, 2, and 3 should be limited to the period from 1997 through 1999. We are of the opinion that this action will not adversely affect our ability to analyze present trends in water distribution main extension practices. To further reduce the burden of compliance, the Commission will permit all parties to file their responses in electronic format. Those who make such filings will not be required to submit additional copies of their responses in paper

medium.¹ We have further directed that electronic copies of the interrogatories² and an electronic spreadsheet version³ of Tables I, II and III of those interrogatories be made available for downloading at the Commission's Internet web site. Finally, the Commission will extend the time for responding to the Order of November 2, 2000 an additional 32 days.

KRWA has also moved for a grant of limited immunity for water utilities and their officials and employees. It states that some water utilities may not currently be in compliance with Administrative Regulation 807 KAR 5:066, Section 11, and that, by furnishing the information required by the Order of November 2, 2000, these utilities will be exposing themselves to potential administrative sanctions. KRWA further states that the fear of such sanctions may cause some water utilities to be less forthcoming in their responses and thus may lessen the accuracy and quality of the information collection process.

Finding merit in these arguments, the Commission finds that limited immunity should be extended. We find that no water utility's response to the Order of November 2, 2000 should be admissible as evidence in any Commission proceeding whose purpose is to consider the assessment of civil penalties against the water utility or its officers or employees for failure to comply with Administrative Regulation

¹ All parties, even those who submit their responses in electronic format, must submit the original response in paper medium.

² The electronic version of this material in PDF format is found at www.psc.state.ky.us/agencies/psc/orders/022001/0000386_13.pdf and in Microsoft Word[®] 97 format at www.psc.state.ky.us/agencies/psc/orders/022001/0000386_13.doc.

³ This electronic spreadsheet containing these tables may be found at www.psc.state.ky.us/agencies/psc/orders/022001/0000386_13.xls.

807 KAR 5:066, Section 11.⁴ Such information, however, will continue to be admissible in Commission proceedings whose purpose is to determine whether KRS 278.160 or Administrative Regulation 807 KAR 5:066, Section 11, requires the water utility to refund an applicant's contribution for a water distribution main extension.

The Commission acknowledges that several water utilities have informally requested clarification of certain interrogatories set forth in the Order of November 2, 2000. To resolve questions regarding these interrogatories, the Commission has issued some clarifying instructions that are at Appendix B of this Order. We encourage any party with questions regarding the Order of November 2, 2000 to request clarification in writing or to contact the Commission's Executive Director for further assistance.

IT IS THEREFORE ORDERED that:

1. KRWA's motion to eliminate Interrogatories 2 and 3 of the Commission's Order of November 2, 2000 is denied.
2. KRWA's motion to restrict the scope of Interrogatories 1, 2, and 3 of the Commission's Order of November 2, 2000 to water distribution main extensions financed solely through customer contributions is denied.

⁴ This action is consistent with KRS 278.350 which provides:

No person shall be excused from testifying or from producing any book, paper or account at any inquiry by, or hearing before, the commission or any commissioner, upon the ground that the testimony or the book, paper or account required of him may tend to incriminate him or subject him to penalty or forfeiture. No person shall be prosecuted or subjected to any forfeiture or penalty for, or on account of, anything concerning which he was compelled to testify under oath or to produce documentary evidence, except that no person so testifying shall be exempt from prosecution or punishment for perjury committed by him in his testimony.

3. KRWA's motion to narrow the scope of Interrogatories 1, 2, and 3 of the Commission's Order of November 2, 2000 to the period from 1997 through 1999 is granted.

4. Each water utility that has not filed a response to the Commission's Order of November 2, 2000 as of the date of this Order shall file the original and 8 copies of its response with the Commission no later than April 16, 2001. The interrogatories contained in the Order of November 2, 2000, as amended by this Order, are set forth in Appendix A.

5. All intervenors shall file with the Commission, no later than April 16, 2001, the original and 8 copies of their responses to the questions set forth in Appendix C.⁵ Each response should be placed in a bound volume with each item tabbed. When a number of sheets are required for a response, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Careful attention shall be given to copied material to ensure its legibility.

6. In lieu of filing the original and 8 copies of its responses, a responding party may comply with Ordering Paragraphs 4 or 5 of this Order by filing the original in paper medium and one copy in electronic medium.

7. Parties submitting their response in electronic medium shall submit the files comprising the response on a computer diskette when submitting the original of the response or by uploading the files comprising that copy to the file transfer protocol ("FTP") site designated by the Commission's Executive Director.

⁵ To the extent that the Order of November 2, 2000 required intervening parties to respond to the interrogatories found in the Order of November 2, 2000, it is vacated and superseded by this Order.

8. All electronic filings shall be performed in the following manner:
- a. All responses, except spreadsheets, shall be submitted in portable document format (“PDF”), Microsoft Word[®]97 format, or Rich Text Format (“RTF”).
 - b. Spreadsheets shall also be submitted in Microsoft Excel[®]97 format.
 - c. Each file in the response should be named in such manner to permit easy recognition of its contents.
 - d. The filing shall include an introductory document, in PDF or RTF format named “Read1st,” that contains a general description of the filing. The electronic version of the cover letter accompanying the paper filing may be substituted for a general description.
 - e. The filing shall contain a document, in PDF or RTF format named “Index,” that contains a listing of each file transmitted and a brief description of its contents. The listing shall follow the format set forth below:

<u>File Name</u>	<u>Description</u>
DBWD_Response.pdf	Daniel Boone Water District’s Response to Order of 2/13/2001
DBWD_Response_Item 1-3.xls	Daniel Boone Water District’s Response to Order of 2/13/2001 - Items 1 through 3
DBWD_Read1st.pdf	Description of Filing

f. All files containing spreadsheets shall be self-contained and shall not contain any linked references to or macro commands involving external files.

9. Each party that makes an electronic filing by transmitting files to the designated FTP site shall, upon completion of its transmission, notify the Commission by electronic mail message. This message shall be transmitted to the Commission at pscfilings@mail.state.ky.us and shall state the nature of the filing, case number, date and time of transmission, name of the party responsible for the filing, and the name and

e-mail address of the person making the electronic filing. It shall also contain, as an attachment, a copy of the "Read1st" and "Index" files.

10. Within 30 days of the date of this Order, each party intending to file its response electronically by transmitting files to a designated FTP site shall notify the Commission in writing of its intention and of the e-mail address to which all electronic notices and messages related to this proceeding should be served.

11. When filing any document with the Commission, any party making an electronic filing shall certify that:

a. The electronic version of the filing is a true and accurate copy of the document(s) that was filed in paper medium.

b. The electronic version of the filing has been transmitted to the Commission.

12. A document shall be considered timely filed with the Commission if it has been successfully transmitted in electronic medium to the designated FTP site within the time allowed for filing and the original in paper medium is received by the Commission on the next business day following the electronic filing.

13. KRWA's motion for limited immunity is granted.

14. The information contained in a party's response to this Order or the Commission's Order of November 2, 2000 shall not be admissible as evidence in any Commission proceeding established to consider the assessment of civil penalties against the party or its officers or employees for failure to comply with Administrative Regulation 807 KAR 5:066, Section 11. Such information, however, will continue to be admissible in Commission proceedings whose purpose is to determine whether

KRS 278.160 or Administrative Regulation 807 KAR 5:066, Section 11, requires the water utility to refund an applicant's contribution for a water distribution main extension.

Done at Frankfort, Kentucky, this 13th day of February, 2001.

By the Commission

ATTEST:


Executive Director

APPENDIX A

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN ADMINISTRATIVE CASE NO. 386 DATED FEBRUARY 13, 2001

1. Using the format shown in Table I, provide for each of the last 3 calendar years (1997 -1999):
 - a. Total amount of water distribution main extended (in linear feet) *(column 1)*.
 - b. A breakdown of water distribution main extensions (in linear feet) based upon main size *(columns 2 – 8)*.
 - c. Total amount of water distribution main extended (in linear feet) whose cost was borne by the utility *(column 9)*.
 - d. Total amount of water distribution main extended (in linear feet) whose cost was borne by applicants *(column 10)*.
 - e. Total amount of water distribution main extended (in linear feet) whose cost was borne by applicants who were real estate subdivision developers *(column 11)*.
 - f. Total amount of water distribution main extended (in linear feet) whose cost was borne by applicants who were non-real estate subdivision developers *(column 12)*.
 - g. Total customers served upon completion of water distribution main *(column 13)*.
 - h. Total cost of water distribution main (includes utility and non-utility contribution) *(column 14)*.

i. Total cost of the utility for the water distribution main extensions (column 15).

j. Total cost of water distribution main extensions paid by applicants who were real estate subdivision developers (column 16).

k. Total cost of water distribution main extensions paid by applicants who were not real estate subdivision developers (column 17).

2. For water distribution main extensions constructed in the last 3 calendar years (1997 -1999) and for which the utility bore a portion of the cost, list each source of funding (e.g., Rural Development loan, Community Development Block Grant) and the total amount of funding received from each source for each year. Use the format shown in Table II.

3. For each water distribution main extension constructed in the last 3 calendar years (1997 -1999) in which federal, state, or local government funding was involved and using the format shown in Table III, state:

a. Name of or identifier for the water distribution main extension.

b. Year in which construction was completed.

c. Total cost of the water distribution main extension.

d. Total length of the water distribution main extension (in linear feet).

e. Total number of applicants for service.

f. Total contribution by applicants.

g. Total governmental contribution in the form of a grant.

h. Total governmental contribution in the form of a loan.

i. Whether all applicants for service were required to contribute the same amount.

j. If required contributions were not at the same level, the reasons for differing treatment.

4. a. What portion of the cost of a water distribution main extension is an applicant for water service required to bear when the utility uses federal, state, or local government funds to make a water distribution main extension?

b. How does this arrangement differ from those associated with water distribution main extensions in which no federal, state or local governmental funding is involved?

5. Should water distribution main extensions that are financed with federal, state, or local governmental funds be treated in the same manner as non-governmental funded extensions (i.e., the applicants' share of the cost for water distribution main extensions is calculated and enforced in the same manner)? Explain.

6. Describe your utility's current policy toward water distribution main extensions.

7. When making water distribution main extensions, does your utility follow the requirements of Administrative Regulation 807 KAR 5:066, Section 11? If no, why not?

8. Administrative Regulation 807 KAR 5:066, Section 11, currently permits a water utility to deviate from its requirements upon a showing of good cause. What grounds should serve as the basis for granting a deviation from the regulation's

requirements? For each ground listed, explain why it is an appropriate basis for granting a deviation.

9. What effect, if any, do the water main extension policies set forth in Administrative Regulation 807 KAR 5:066, Section 11, have on land development in your community or the state at large?

10. When a water utility constructs a water distribution main extension to serve a group of applicants for service, it may occasionally upsize the main to provide for future growth.

a. Has your utility engaged in this practice?

b. If yes, how does your utility determine the applicants' share of the cost of the water distribution main extension?

c. If no, how should the applicants' share of the cost of the water distribution main extension be determined?

d. Should Administrative Regulation 807 KAR 5:066, Section 11, be revised to address this issue? Explain.

11. a. Does your utility permit a real estate subdivision developer to construct a water distribution main extension to his development and then donate the extension to your utility?

b. If yes,

(1) How does your utility determine the cost of the water distribution main extension?

(2) What approval(s), if any, must the developer obtain from your utility prior to commencement of construction?

(3) Describe the review of the developer's plans and specifications, if any, that your utility performs before the developer begins construction.

(4) Does your utility prescribe the specifications for the water distribution main extension? Are these specifications set forth in your utility's filed rate schedules?

(5) List the documents that a developer must submit to your utility prior to the utility's acceptance of the water distribution main extension.

(6) What actions, if any, does your utility take to ensure that the water distribution main extension is constructed in accordance with accepted engineering standards?

(7) What, if any, warranties must be provided before your utility accepts donation of the water distribution main extension?

(8) What analysis of the cost of maintaining and operating a proposed extension and the potential revenues from the extension, if any, does your utility perform before accepting the donation of a water distribution main extension?

c. If no, describe the procedures that your water utility uses to construct the water distribution main extension and ensure that the cost of construction is reasonable. Include in this response a description of how contractors are selected and how plans and specifications for the water distribution main are prepared.

12. a. If a water distribution main extension to a real estate subdivision requires a water utility to upgrade its existing facilities, who should bear the cost of such upgrades? Explain why.

b. If in your response to Question 12(a) you stated that at least a portion of the cost of the upgrade should be borne by the real estate subdivision developer, explain how your utility would allocate this cost.

13. Administrative Regulation 807 KAR 5:066, Section 11, currently provides a water utility with two options for allocating the cost of a water distribution main extension to persons receiving service from that main. Under the primary option (“Option A”), applicants who will immediately receive water service deposit with the water utility the cost of the main extension that exceeds the water utility contribution. Persons who subsequently connect to the water distribution main extension make no direct contribution toward the cost of the main. Administrative Regulation 807 KAR 5:066, Section 11(2)(b)(2), permits a water utility to require each customer who connects to the main within 5 years of its construction to bear an equal portion of the cost of the water main extension that exceeds the water utility’s contribution (“Option B”).

a. Which option does your utility use to allocate the cost of water distribution main extensions? Why? Why was the other option not selected?

b. Assume that the Commission proposed to eliminate Option A and require all water utilities to use Option B. What is your utility’s position on such proposal?

14. For each of the past 5 calendar years, provide a schedule that lists each refund for water distribution main extension that your utility has made. This schedule shall also list the date and amount of each refund, the number of feet of water main extension for which the refund is made, and whether the recipient of the refund was a real estate subdivision developer.

15. Administrative Regulation 807 KAR 5:066, Section 11, requires a water utility for the 10 years following the construction of a water distribution main extension to refund an applicant's contribution toward the cost of the extension when a new customer connects to the extension.

a. How many water distribution main extensions is your utility, as of the date of this Order, tracking for refunding purposes?

b. How does your utility record and track water distribution main extensions and required refunds?

c. Describe any problems that your utility has experienced recording and tracking water distribution main extensions and required refunds.

d. How would your utility describe the recordkeeping requirements associated with Administrative Regulation 807 KAR 5:066, Section 11?

e. Describe your utility's recordkeeping abilities (e.g., personnel, computer equipment) and how they have affected your utility's ability to comply with the refund requirements of Administrative Regulation 807 KAR 5:066, Section 11.

f. In the last 5 calendar years, has your utility had to transfer to the Kentucky Secretary of State any unclaimed monies that are refunds for a water distribution main extension? If yes, state the amount for each calendar year.

16. a. Has your utility ever been cited or threatened with a citation for violating a regulation of the Natural Resources and Environmental Protection Cabinet due solely to its efforts to comply with Administrative Regulation 807 KAR 5:066, Section 11?

b. If yes, describe each incident. Include with your description the time period and the nature of the violation for which the utility was cited or threatened with citation.

17. Should the requirement of Administrative Regulation 807 KAR 5:066, Section 11(1), that a water utility must extend a water distribution main up to 50 feet for service to a new applicant at no cost be revised? If yes, state how the requirement should be revised and explain why this revision should be made.

18. Should Administrative Regulation 807 KAR 5:066, Section 11(3), be revised to limit refunds to real estate subdivision developers to the cost of extending a water distribution main to their subdivisions and not include water distribution mains located within the subdivisions? Why?

19. a. Should Administrative Regulation 807 KAR 5:066, Section 11(3), be revised to eliminate any requirement for refunds to real estate subdivision developers? Why?

b. If the requirement for refunds to real estate subdivision developers is eliminated, should the requirement for refunds for non-real estate subdivision developers (e.g., applicants seeking water service to his or her residence) also be eliminated?

20. Administrative Regulation 807 KAR 5:066, Section 11(3), is criticized for requiring water utilities to make refunds to real estate subdivision developers. Critics contend that this regulation allows developers to recover the cost of water distribution main extensions twice – first through the sale of the real estate lot and then through the water utility's refund. Does your utility agree with this criticism? Why?

21. Should the length of the 10-year refund period established in Administrative Regulation 807 KAR 5:066, Section 11, be revised? If yes, state how it should be revised and explain why.

22. Under what circumstances should a water utility be obligated to extend a water distribution main at no charge? Explain.

23. List and describe all problems that your utility has experienced as a result of Administrative Regulation 807 KAR 5:066, Section 11.

24. List and describe all revisions, if any, that should be made to Administrative Regulation 807 KAR 5:066, Section 11. Explain why each revision is necessary.

ADMINISTRATIVE CASE NO. 386
TABLE II

Funding Source	1997	1998	1999
Rural Development Loan			
Rural Development Grant			
Community Development Block Grant			
Appalachia Regional Commission Grant			
Economic Development Administration Grant			
Abandoned Mine Lands Trust Fund			
Internally Generated funds			
Loan from Commercial Banks			
Revenue Bonds/Bond Anticipation Notes			
Loan from Kentucky Association of Counties			
Other Sources			

ADMINISTRATIVE CASE NO. 386
TABLE III

Name/Identifier for Extension	Year Constructed	Total Cost	Total Length	Number of Applicants	Governmental Contribution (Grant)	Governmental Contribution (Loan)	Total Applicant Contribution	Were All Ap Require Contribut Amour (i)
<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	<i>(d)</i>	<i>(e)</i>	<i>(f)</i>	<i>(g)</i>	<i>(h)</i>	<i>(i)</i>

APPENDIX B

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN ADMINISTRATIVE CASE NO. 386 DATED FEBRUARY 13, 2001

INSTRUCTIONS FOR COMPLETING TABLES I, II, AND III

- The cost of water storage tanks and pump stations should not be included in the cost of water distribution main projects.
- The cost of water meters should not be included in the cost of water distribution main projects or considered as a customer contribution. When such fees have been included in the cost of the water distribution main extension, they should be deducted before entering the cost of the extension on Table I.
- If a project consists entirely of constructing or expanding a water treatment plant and does not include any water distribution main extension, it does not need to be reported.
- The term "Non-Subdivision Developer," which appears in Table I, refers to all persons other than a real estate subdivision developer.
- The term "Utility Cost," which appears in Table I, includes all utility contributions to the cost of water main extensions (including governmental loans and grants to the utility).
- "Distribution main extensions" include only existing main extensions and do not include water main replacements and upsizing. It does not include highway right-of-way relocation projects.
- For water mains that are 12 inches or larger and that were constructed for distribution and transmission purposes, report only the proportion of the construction related to distribution. (For example, if the water main will be used for distribution purposes only 10 percent of its service life, then only 10 percent of the main's footage should be reported. Likewise, only 10 percent of the main's cost should be reported on Tables I and III.)
- If an extension is funded through government grant or loan, the portion funded through such grants is considered as paid by the utility. The grant or loan is made to the utility and is subsequently spent by the utility. Hence, the amount funded should be reflected in Table I in the column "Utility Cost." (For example, if a Rural Development loan of \$1,000,000 financed a water main distribution

extension and the water utility made no other contributions, "Utility Cost" in Table I for the extension would be \$1,000,000. That portion of the water main extension footage directly related to the loan would be reported under "Total Footage Paid By Utility.") Simply put, all funds that the applicants do not contribute should be considered as the water utility's share of the cost.

APPENDIX C

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN ADMINISTRATIVE CASE NO. 386 DATED FEBRUARY 13, 2001

1. Should water distribution main extensions that are financed with federal, state, or local governmental funds be treated in the same manner as non-governmental funded extensions (i.e., the applicants' share of the cost for water distribution main extension is calculated and enforced in the same manner)? Explain.

2. Administrative Regulation 807 KAR 5:066, Section 11, currently permits a water utility to deviate from its requirements upon a showing of good cause. What grounds should serve as the basis for granting a deviation from the regulation's requirements? For each ground listed, explain why it is an appropriate basis for granting a deviation.

3. What effect, if any, do the water main extension policies set forth in Administrative Regulation 807 KAR 5:066, Section 11, have on land development in local communities and the state at large?

4. When a water utility constructs a water distribution main extension to serve a group of applicants for service, it may occasionally upsize the main to provide for future growth.

a. How should the applicants' share of the cost of the water distribution main extension be determined?

b. Should Administrative Regulation 807 KAR 5:066, Section 11, be revised to address this issue? Explain.

5. Assume that a water utility permits a real estate subdivision developer to construct a water distribution main extension to his development and then donate the extension to the utility
- a. How should the utility determine the cost of the water distribution main extension?
 - b. What approval(s), if any, may the utility require of the developer prior to commencement of construction?
 - c. What review of the developer's plans and specifications, if any, should the water utility perform before the developer begins construction?
 - d. Should a water utility prescribe technical specifications for the water distribution main extension?
 - e. What technical specifications, if any, should a water utility set forth in its filed rate schedules?
 - f. What actions, if any, should a water utility be permitted to take to ensure that the water distribution main extension is constructed in accordance with accepted engineering standards?
 - g. What, if any, warranties should a water utility require of the developer as a condition to the acceptance of his donation of the water distribution main extension?
 - h. What analysis of the cost of maintaining and operating a proposed extension and the potential revenues from the extension, if any, should a water utility perform before accepting the donation of a water distribution main extension?

6. a. If a water distribution main extension to a real estate subdivision requires a water utility to upgrade its existing facilities, who should bear the cost of such upgrades? Explain why.

b. If in your response to Question 6(a) you stated that at least a portion of the cost of the upgrade should be borne by the real estate subdivision developer, explain how this cost should be allocated.

7. Administrative Regulation 807 KAR 5:066, Section 11, currently provides a water utility with two options for allocating the cost of a water distribution main extension to persons receiving service from that main. Under the primary option (“Option A”), applicants who will immediately receive water service deposit with the water utility the cost of the main extension that exceeds the water utility contribution. Persons who subsequently connect to the water distribution main extension make no direct contribution toward the cost of the main. Administrative Regulation 807 KAR 5:066, Section 11(2)(b)(2), permits a water utility to require each customer who connects to the main within 5 years of its construction to bear an equal portion of the cost of the water main extension that exceeds the water utility’s contribution (“Option B”). Assume that the Commission proposed to eliminate Option A and require all water utilities to use Option B. What is your position on such proposal?

8. Administrative Regulation 807 KAR 5:066, Section 11, requires a water utility for the 10 years following the construction of a water distribution main extension to refund an applicant’s contribution toward the cost of the extension when a new customer connects to the extension.

a. Describe any problems that a utility may experience in recording and tracking water distribution main extensions and required refunds.

b. Describe any benefits that are derived from this provision of Administrative Regulation 807 KAR 5:066, Section 11.

c. How would you describe the recordkeeping requirements associated with Administrative Regulation 807 KAR 5:066, Section 11?

9. In your opinion may the requirements of Administrative Regulation 807 KAR 5:066, Section 11, place a water utility in potential conflict with the regulations of the Natural Resources and Environmental Protection Cabinet? If yes, explain.

10. Should the requirement of Administrative Regulation 807 KAR 5:066, Section 11(1), that a water utility must extend a water distribution main up to 50 feet for service to a new applicant at no cost be revised? If yes, state how the requirement should be revised and explain why this revision should be made.

11. Should Administrative Regulation 807 KAR 5:066, Section 11(3), be revised to limit refunds to real estate subdivision developers to the cost of extending a water distribution main to their subdivisions and not include water distribution mains located within the subdivisions? Why?

12. a. Should Administrative Regulation 807 KAR 5:066, Section 11(3), be revised to eliminate any requirement for refunds to real estate subdivision developers? Why?

b. If the requirement for refunds to real estate subdivision developers is eliminated, should the requirement for refunds for non-real estate subdivision

developers (e.g., applicants seeking water service to his or her residence) also be eliminated?

13. Administrative Regulation 807 KAR 5:066, Section 11(3), is criticized for requiring water utilities to make refunds to real estate subdivision developers. Critics contend that this regulation allows developers to recover the cost of water distribution main extensions twice – first through the sale of the real estate lot and then through the water utility's refund. Do you agree with this criticism? Why?

14. Should the length of the 10-year refund period established in Administrative Regulation 807 KAR 5:066, Section 11, be revised? If yes, state how should it be revised and explain why.

15. Under what circumstances should a water utility be obligated to extend a water distribution main at no charge? Explain.

16. List and describe all revisions, if any, that should be made to Administrative Regulation 807 KAR 5:066, Section 11. Explain why each revision is necessary.