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<b>To:</b> Kentucky Public Service Comm.	<b>From:</b> D. Berry Baxter
<b>Fax:</b> 502.564.3460	<b>Pages:</b> 5 pages including cover
<b>Phone:</b>	<b>Date:</b> May 18, 2009
<b>Re:</b> Case No. 2006-00191	<b>cc:</b>

**Urgent**     
  **For Review**     
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• **Comments:** Original will follow.

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Of Counsel: D. K. Floyd

May 18, 2009

KY Public Service Commission  
P.O. Box 615  
211 Sower Boulevard  
Frankfort, Kentucky 40602-0615

RE: Henry County Water District #2  
Case No. 2006-00191

**REQUEST FOR EXTENSION OF AUTHORIZATION**

**Offsetting Improvement Charge**

In order to give the Henry District sufficient time to prepare and submit an acceptable system development charge to replace the Offsetting Improvement Charge, we request an extension of the Commission's authorization of the OIC until December 31, 2009.

As noted in the Commission's Order of Dec 8, 2008 in Case 2006-00191, the temporary continuation of the OIC was intended "to prevent any disparate treatment of customers that might result from the sudden termination of the Offsetting Improvement Charge" It is for that reason, and because it will require additional time to determine the best and most acceptable approach to the formulation of the new charge, that the District now requests an extension.

Following the December 8, 2008 Order, the Henry District examined the Commission's decision and considered our options for an appeal. We came to understand that such a pursuit would most likely be unsuccessful. On February 5 we wrote the PSC requesting specific clarifications regarding their suggestion that an SDC based on the equity methodology might work well for the Henry District. The Commission responded to our request on April 2 in a letter generally supportive of an equity SDC submittal. On April 8 the District wrote to the Attorney General asking whether their office considered the equity methodology to be lawful in Kentucky, an issue they had previously raised in PSC Administrative Case 375 concerning system development

D. Berry Baxter

Page 2

May 18, 2009

charges.

As can be seen in the attached May 8 response from David Spenard, the use of the equity methodology in Kentucky remains problematic to the Office of the Attorney General. The Henry District could therefore once again enter into a long and costly effort with uncertain results.

It is our responsibility to our ratepayers to insure that the proposed impact fee complies with all regulatory and legal guidelines, and has the highest possibility of implementation. Therefore, in order to provide the District with time to make the necessary well-informed judgments regarding the structure of our SDC submittal, and in order to maintain a consistent policy toward our new customers, we request that the OIC remain in effect until the end of 2009.

Yours Very Truly,



D. BERRY BAXTER

Enc.

Cc: James T. Simpson



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8 May 2009

*Via facsimile and regular mail*

Merle Brewer, Chairman  
Henry County Water District No. 2  
P. O. Box 219  
Campbellsburg, Kentucky 40011

RE: System Development Charge for Henry County Water District No. 2

Dear Chairman Brewer:

The Office of the Attorney General is in receipt of your 8 April 2009 letter containing two questions regarding the equity methodology as a basis for a system development charge. Following a review of your letter and 807 KAR 5:090 (System development charges for water utilities), we note the following.

The position of the OAG regarding the equity method remains the same as contained in the quote that you cite from the record in PSC Administrative Case 375. The District has yet to file an application, and the PSC has yet to issue an Order approving a charge based on the equity method. Therefore, we decline to commit to a specific course of action in the absence of a developed record and final Order. The OAG does, nonetheless, note that it has serious concerns regarding the method, and it will consider pursuing all available remedies.

With regard to "separate charges outside of rates cases," the Attorney General has contested the ability of the Public Service Commission to authorize an accelerated mains replacement program. The OAG has not contested the ability of the PSC to utilize the Fuel Adjustment Clause, the Gas Cost Adjustment mechanism, or 807 KAR 5:006 Section 8 (Special Charges). We consider each regulatory measure separately. In the absence of an application, we cannot make a determination regarding the legality of a proposal.

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