



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

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July 2, 1997

Mr. Harold A. Adams  
Boonesboro Water Association  
136 Hud Road  
Winchester, Kentucky 40391-9736

Dear Mr. Adams:

Commission Staff is in receipt of your letter of June 19, 1997 regarding alleged territorial encroachments by Winchester Municipal Utilities ("WMU").

Your letter states the following facts: In 1981 Boonesboro Water Association ("Boonesboro") and WMU executed a water purchase agreement which, inter alia, assigned certain territory to Boonesboro and permitted WMU to serve customers which were not included in those territories. In May 1997, WMU advised Boonesboro that it intended to serve certain Boonesboro customers who are allegedly outside of Boonesboro's assigned territory. Boonesboro opposes this action and contends that WMU's actions threaten the integrity of its distribution system and the quality of its water service.

Commission Staff is unable to render any assistance to Boonesboro in this matter and respectfully submits that the Public Service Commission is not the appropriate forum for Boonesboro's efforts to oppose WMU's actions. Kentucky's highest court has held that the Public Service Commission lacks the authority to determine territory disputes between cities and regulated utilities. City of Georgetown, Kentucky v. Pub. Serv. Com'n, Ky., 516 S.W.2d 842 (1974). Moreover, the Public Service Commission has no authority to establish exclusive service territories for water utilities. See Kentucky Utilities Co. v. Pub. Serv. Com'n, Ky. 390 S.W.2d 168, 175 (1965) (stating that existing utilities do not "have any right to be free of competition."). See also Mountain Utilities, Inc. v. Equitable Gas Co., Case No. 91-316 (Ky.P.S.C. Apr. 6, 1992).

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.

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Questions concerning this opinion should be directed to Gerald Wuetcher, Commission counsel, at (502) 564-3940, Extension 259.

Sincerely,

Don Mills  
Executive Director

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