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Commissioner**

April 17, 2000

Mr. Jim Smith
Carroll County Water District No. 1
Post Office Box 350
Ghent, Kentucky 41045-0350

Re: Waterline Extension – US 42
PDR Project 98337

Dear Mr. Smith:

Commission Staff is in receipt of your letter of March 30, 2000 regarding Carroll County Water District No. 1's need for a certificate of public convenience to construct a new water line extension.

In your letter and in your conversations with Commission Staff, the following facts were submitted: Carroll County Water District No. 1 ("Carroll District ") intends to construct 18,365 feet of 8-inch polyvinyl chloride ("PVC") water main to connect its Gallatin County water treatment plant with its Ghent water treatment plant. The proposed water main extension will permit Carroll District to direct water from its Gallatin County water treatment plant to its Ghent service area and to serve the needs of two industrial customers. Estimated cost of the proposed main extension is \$400,000, which Carroll District proposes to finance through a private bond issuance or a long-term capital lease under the auspices of the Kentucky Association of Counties Leasing Trust Fund. Carroll District does not intend to adjust its existing rates for water service.

Your letter poses the following issue: Is Carroll District required to obtain a certificate of public convenience and necessity for the proposed extension?

KRS 278.020(1) provides:

No person, partnership, public or private corporation, or combination thereof shall 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-



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consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until such person has obtained from the Public Service Commission a certificate that public convenience and necessity require such 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.

Based upon the facts presented in your letter, Commission Staff is of the opinion that the proposed construction is not an extension in the ordinary course of business and will require a certificate of public convenience. According to its Annual Report for Calendar Year 1999, Carroll District had net utility plant of \$6,469,415 and long-term debt of \$4,979,981 as of December 31, 1999. The proposed construction, therefore, represents approximately a 6.2 percent increase in Carroll District's utility plant and will require an eight percent increase in its long-term debt. The proposed issuance of long-term debt will materially affect Carroll District's existing financial condition.

Commission Staff further notes that Commission approval of the proposed water main extension's financing is also required. KRS 278.300(1) provides:

No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission.

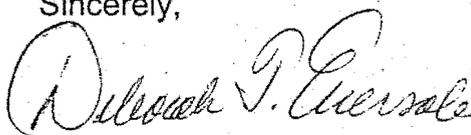
Clearly, any private bond issuance would require Commission authorization. As the Commission has previously held that a capital lease agreement also constitutes an evidence of indebtedness, see Burkesville Gas Company, Case No. 92-178 (Ky.P.S.C.

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Oct. 28, 1992), Carroll District's use of the KACO Leasing Trust Fund would also require Commission authorization.

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, Commission counsel, at (502) 564-3940, Extension 259.

Sincerely,



Deborah T. Eversole
General Counsel

cc: Company Correspondence File