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**Janie A. Miller, Secretary
Public Protection and
Regulation Cabinet**

**Thomas M. Dorman
Executive Director
Public Service Commission**

**COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION**
211 SOWER BOULEVARD
POST OFFICE BOX 615
FRANKFORT, KENTUCKY 40602-0615
www.psc.state.ky.us
(502) 564-3940
Fax (502) 564-3460

**Martin J. Huelsmann
Chairman**

**Gary W. Gillis
Vice Chairman**

**Robert E. Spurlin
Commissioner**

September 13, 2002

Mr. W. Randall Jones
Rubin & Hayes
Kentucky Home Trust Building
450 South Third Street
Louisville, KY 40202-1410

RE: Henry County Water District
Case No. 2002-00308

Dear Mr. Jones:

Your letter of September 6, 2002, has been referred to me for reply. In your letter you state that Henry County Water District ("HCWD") and the City of Campbellsburg ("Campbellsburg") have executed a memorandum of understanding, which provides that Campbellsburg will transfer its municipal water system to HCWD. In return, HCWD will provide service to Campbellsburg's customers. Though not stated specifically in the memorandum of understanding, it appears from your letter that the transfer will be without monetary consideration, and HCWD will charge Campbellsburg customers the same rates that it charges its current customers. Although the memorandum states that HCWD will assume the liabilities of the Campbellsburg water system, and that the transfer will be subject to approval by the "holders of Campbellsburg debt securities," you have advised that the Campbellsburg water system is debt free and is not serving as security for any debt obligation. Based upon these factors, you have requested a declaration that Commission approval is not required for HCWD to acquire Campbellsburg's water system and to apply its current rates to the Campbellsburg customers.

As support for granting the declaration, you cite the Commission's decision in Case No. 2000-00357.¹ That case arose from an application by Northern Kentucky Water District ("NKWD") for approval to acquire the City of Ludlow's ("Ludlow") water system. By the terms of their contract, Ludlow agreed that it would transfer its water system to NKWD free and clear of all encumbrances and that NKWD would assume no liabilities related to the system. Under these circumstances, the Commission dismissed the application, holding that a jurisdictional utility's acquisition of a non-jurisdictional utility does not require Commission approval if the utility acquiring the property is not required to issue any securities or evidences of indebtedness, or to assume any obligations or debts associated with the non-jurisdictional utility's system. Those same circumstances are presented here. Therefore, the proposed transfer does not require Commission approval.

¹ Application of Northern Kentucky Water District for Authorization to Acquire the Waterworks Distribution System of the City of Ludlow. Case No. 2000-00357 [decided July 20, 2000].



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HCWD may also apply its current rates to Campbellsburg customers without Commission approval when the transfer is complete. Campbellsburg's water system is not subject to the Commission's jurisdiction and the transfer is essentially an extension of service by HCWD to a new group of customers. Therefore, unless HCWD obtains approval of a rate adjustment that establishes a different rate, the Campbellsburg customers are entitled to service under HCWD's current rates.

This letter represents the legal opinion of the Commission Staff. The opinion is advisory in nature and is not binding on the Commission should this issue come before it in a formal proceeding. If you have further questions, please contact me at 502-564-3940, Extension 256.

Sincerely,



Paul Shapiro
Staff Attorney

