



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

David L. Armstrong  
Chairman

James Gardner  
Vice-Chairman

John W. Clay  
Commissioner

July 29, 2008

Mr. James D. Sensabaugh  
Laurel County Water District No. 2  
3910 South Laurel Road  
London, Kentucky 40744

Re: Project No. 0238-05-08-01  
Bluegrass Estates Subdivision

Dear Mr. Sensabaugh:

Commission Staff acknowledges receipt of your letter of June 17, 2008 in which you request an opinion regarding the need for a certificate of public convenience and necessity for a proposed water main extension project in Laurel County, Kentucky.

In your letter and subsequent telephone conversation with Commission Staff, you present the following facts: Laurel County Water District No. 2, a water district organized pursuant to KRS Chapter 74, proposes to extend its water mains in Laurel County, Kentucky. This project consists of the construction of 450 linear feet of 4-inch polyvinylchloride water main to provide water service to no more than 6 residences. Estimated cost of this project is approximately \$4,183. Laurel County Water District No. 2 will finance the proposed project entirely from a contribution from the real estate subdivision developer. No evidences of indebtedness will be issued nor will the water district increase its rates for water service.

Your letter presents the following question: Must Laurel County Water District No. 2 obtain a certificate of public convenience and necessity for the proposed project?

KRS 278.020(1) provides:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or 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-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public

Service Commission a certificate that public convenience and necessity require the service or construction.

Administrative Regulation 807 KAR 5:001, Section 9(3) further provides:

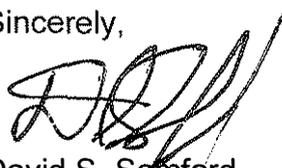
Extensions in the ordinary course of business. No certificate of public convenience and necessity will be required for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in 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.

Under the method of analysis that Commission Staff has historically employed, the proposed construction appears to be in the ordinary course of business and would not require a certificate of public convenience and necessity. According to its Annual Report for Calendar Year 2007, Laurel County Water District No. 2 had net utility plant of \$3,995,812.<sup>1</sup>

than 0.1 percent in Laurel County Water District No. 2's utility plant. Such a small increase in net utility plant is considered as ordinary. See, e.g., City of Covington v. Board of Commissioners of Kenton County Water District No. 1, 371 S.W.2d 20 (Ky. 1963). Moreover, as the funds for the proposed construction will come from outside sources and will not require the issuance of additional debt or any increased charges to customers, the proposed construction does not appear to materially affect Laurel County Water District No. 2's existing financial condition.

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, Assistant General Counsel, at (502) 564-3940, Extension 259.

Sincerely,



David S. Sanford  
General Counsel

---

<sup>1</sup> Annual Report of Laurel County Water District No. 2 to the Public Service Commission for the Calendar Year Ended December 31, 2007 at 7.