



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
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January 25, 1993

Hon. Richard F. Newell
Ogden Newell & Welch
1200 One Riverfront Plaza
Louisville, Kentucky 40202

Re: Indiana Municipal Power Agency

Dear Mr. Newell:

The Commission's Legal Division has reviewed your January 6, 1993 letter on behalf of the Indiana Municipal Power Agency. You have requested an advisory opinion regarding certain legal implications of Indiana Municipal Power Agency's, or its not for profit affiliated instrumentality, IMPA Service Corporation's (both collectively "IMPA") pending purchase and ownership of 12.88 percent of the Trimble County Unit No. 1 Generating Plant ("Trimble County Unit No. 1") from the Louisville Gas and Electric Company ("LG&E") and/or IMPA's purchase of 63.75 megawatts of capacity and associated energy pursuant to a Unit Power Purchase Agreement. Specifically, you have asked whether the transactions as described in your letter will result in IMPA being a utility as defined in KRS Chapter 278 or otherwise subject to the regulatory jurisdiction of this Commission; and whether Commission approval is required for IMPA's purchase and ownership of Trimble County Unit No. 1, IMPA's issuance of securities including bonds incident thereto, or IMPA's purchase and receipt of power and energy as described in your letter.

For the purpose of this advisory opinion, we rely on the statements and representations contained in your January 6, 1993 letter, as well as the documents appended thereto. IMPA, being an Indiana "body corporate and politic and a political subdivision of [that] state" which will not generate, transmit, or distribute electricity to or for the public in Kentucky, will not be a utility as currently defined by KRS Chapter 278, and will not be subject to this Commission's regulatory jurisdiction. Since IMPA will not be regulated under KRS Chapter 278, no Commission approval is necessary for IMPA to issue securities including bonds or to purchase and receive power and energy in proportion to its ownership interest or pursuant to the Unit

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Power Purchase Agreement, such Agreement being subject to the regulatory jurisdiction of the Federal Energy Regulatory Commission.

The Commission previously ruled in Case NO. 9934, A Formal Review of the Current Status of Trimble County Unit No. 1, that LG&E should sell on a joint ownership or unit power basis 25 percent of the capacity of Trimble County Unit No. 1. In light of that finding, no further Commission approval is necessary for LG&E to sell up to an aggregate of 25 percent of Trimble County Unit No. 1, or for IMPA, which will not be subject to KRS Chapter 278, to own 12.88 percent of Trimble County Unit No. 1.

This letter represents the Legal Division's interpretation of the law as applied to the facts present in your letter. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution. Should you have any questions concerning this opinion, please contact our staff attorney Richard Raff at (502) 564-3940.

Sincerely,



Don Mills
Executive Director

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