



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

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(502) 564-3940

July 18, 1995

Ms. Debra Bridges
Diamond Properties
12272 Madison Pike
Independence, Kentucky 41051

Dear Ms. Bridges:

Commission Staff is in receipt of your letters concerning the installation of individual water meters for each unit located in Covington Mobile Home Park.

The Commission Staff understands the facts to be as follows: You are the owner of Covington Mobile Home Park which contains over two dozen mobile home pads. Kenton County Water District #1 ("Kenton Water") provides water service to the Park through a single meter. You wish to install individual meters for each unit to read yourself on a regular basis.

After the individual meters are installed, you intend to include in the rent a base charge for water and sewer use, and assess an additional charge for any use over the base amount. The Park will continue to purchase water from Kenton Water through the master meter. You intend to charge your tenants the same rates charged you by Kenton Water and plan to make no profit.

You ask first whether the Commission would have a problem with this arrangement.

Your letter goes on to ask whether the Commission would have a problem with you charging your tenants a small, possibly \$2.00, billing fee in addition to the excess water and sewer usage charge.

The real issue in both of your questions is whether you would be a utility under your proposed arrangement, as only then would you fall under Commission jurisdiction.

KRS 278.040 provides that the "jurisdiction of the [C]ommission shall extend to all utilities in this state." KRS 278.010(3)(f) defines a utility as

any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with . . . [t]he

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diverting, developing, pumping, impounding,
distributing or furnishing of water to or for
the public, for compensation

Your proposed arrangement will not place you within this definition as you will not manage or operate any facilities which provide service to "the public."

"One offers service to the 'public' . . . when he holds himself out as willing to serve all who apply up to the capacity of his facilities. It is immaterial . . . that his service is limited to a specified area and his facilities are limited in capacity." North Carolina ex rel. Utilities Comm'n v. Carolina Tel. & Tel. Co., 148 S.E.2d 100, 109 (N.C. 1966). If utility service is limited to a specific class of persons, however, that service is not to the public. Utility service provided by a landlord to his tenants is considered as service to a specific class and does not, therefore, make the landlord a utility subject to Commission regulation. See Drexelbrook Associates v. Pennsylvania Pub. Util. Comm'n, 212 A.2d 237 (Pa. 1965); City of Sun Prairie v. Wisconsin Pub. Serv. Comm'n, 154 N.W.2d 360 (Wis. 1967); Pub. Serv. Comm'n of Maryland v. Howard Research & Development Corp., 314 A.2d 682 (Md. 1974).

As you do not appear to intend to provide utility service to anyone other than your tenants, you will not be providing such service to "the public" and therefore you will not fall under Commission jurisdiction. As you will not fall under Commission jurisdiction, the Commission has no authority over your proposed arrangement. While Kenton Water's tariff, which is on file with the Commission, does not appear to oppose such an arrangement, it would be advisable, if you have not already done so, to seek an opinion from Kenton Water concerning this matter.

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 John Steffen, Commission counsel, at (502) 564-3940.

Sincerely,



Don Mills
Executive Director