



Paul E. Patton, Governor

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  
psc.ky.gov  
(502) 564-3940  
Fax (502) 564-3460

Martin J. Huelsmann  
Chairman

Gary W. Gillis  
Vice Chairman

Robert E. Spurlin  
Commissioner

November 6, 2003

Mr. Errol K. Wagner  
Director of Regulatory Services  
American Electric Power  
P.O. Box 5190  
Frankfort, KY 40602-5190

Re: Request for Opinion Regarding Applicability of KRS 278.218

Dear Mr. Wagner:

This is in response to your November 5, 2003, letter requesting a staff opinion as to whether KRS 278.218 applies to the sale of two office buildings formerly used by Kentucky Power for utility purposes. Specifically, you ask whether Commission approval of the sale of those buildings is required by the statute. Based on the following analysis, we conclude that no Commission approval is required.

KRS 278.218 requires Commission approval of a transfer of utility assets "if the assets have an original book value of one million dollars (\$1,000,000) or more" and if one of two additional factors applies:

- (a) The assets are to be transferred by the utility for reasons other than obsolescence; or
- (b) The assets will continue to be used to provide the same or similar service to the utility or its customers.

KRS 278.218.

The buildings are "assets that are owned by a utility as defined under KRS 278.010(3)(a)." Moreover, the "original book value" of each building exceeds the statutory minimum. The original book value of the Ashland office building consists of the original cost, \$9.5 million, plus the \$2 million in improvements. The original book value of the Pikeville office building is the original cost, \$85,000, plus \$1,200,000 in improvements. Thus, the first prong of the statute applies.



AN EQUAL OPPORTUNITY EMPLOYER M/F/D

Mr. Errol K. Wagner  
November 6, 2003  
Page two

The second prong does not, as neither building is to be transferred for a reason other than obsolescence and as neither will continue to be used to provide the same or similar service to Kentucky Power's customers. According to your letter, Kentucky Power no longer requires either office building for utility purposes due to workforce reduction. Accordingly, the buildings are, for Kentucky Power's purposes, obsolete. Furthermore, it does not appear that either building will be used to provide service similar to that provided by Kentucky Power.

This letter is an opinion based on the facts stated in your letter. It is not binding on the Commission should the issues discussed herein be presented for formal resolution. If you have questions concerning this letter, please call Aaron Greenwell or Deborah Eversole of my staff at (502) 564-3940.

Sincerely,



Thomas M. Dorman  
Executive Director



AN EQUAL OPPORTUNITY EMPLOYER M/F/D



Thomas M. Dorman  
Executive Director  
Public Service Commission of Kentucky  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602-0615

**RECEIVED**

**NOV 05 2003**

**Executive  
Director's Office**

November 5, 2003

Re: A Request For An Interpretation Of KRS 278.218 In Connection With  
The Transfer Of Two Office Buildings By Kentucky Power

Dear Mr. Dorman:

Kentucky Power Company d/b/a American Electric Power requests an opinion by the staff of the Kentucky Public Service Commission concerning the applicability of KRS 278.218 to the sale of two buildings formerly used for utility purposes. For the reasons set forth below, Kentucky Power believes the statute is inapplicable.

KRS 278.218 provides that Commission approval is required to transfer utility assets with an original book value of one million dollars or more if one of two additional requirements are met: (1) the assets are to be transferred by the utility for reasons other than obsolescence; or (2) the assets will continue to provide the same or similar service to the utility or its customers. The statute goes on to say the Commission shall grant its approval if the transaction is for a proper purpose and is consistent with the public interest.

As an initial matter, it is the Company's belief the statute was intended to apply only to those assets actually used to provide utility service (such as poles, transmission lines, substations and generation facilities) and not to the more general assets, such as office space, required to operate any business. Accordingly, the Company believes the statute does not apply to the Company's transfer of the two office buildings.

In any event, even if the Commission were to conclude the statute was applicable to the transfer of non-utility specific assets such as office space, the Company believes it is not applicable to the two transactions that are the subject of this inquiry.

#### Pikeville Office Building

The first asset is the Pikeville Office Building. This building was first placed into service in 1956 at the then cost of approximately \$85,000. Throughout the years the building improvements, which were made on this property, amounted to approximately \$1,200,000. The accumulated depreciation on the property amounted to approximately \$450,000 resulting in a net book value of \$835,000. The property has an appraised value of approximately \$770,000. After marketing the property for approximately one year the Company's best offer on the property was \$675, 000. A local Pikeville church had the highest offer.

The Company believes KRS 278.218 is inapplicable to this transaction for three reasons. The original book value of the building was \$85,000 and thus it falls below the \$1,000,000 minimum. Second, the building is obsolete for utility purposes. Because of reductions in workforce Kentucky Power no longer requires the building for utility purposes and the remaining personnel have been transferred to existing facilities. Finally, the building will no longer be used by the Company, or to the Company's knowledge, any other entity for utility purposes.

#### Ashland Office Building

The second building is the Ashland Office Building. This asset was first placed in service in 1979 at the then cost of approximately \$9.5 million. Throughout the years the building improvements, which were made on the property, amounted to approximately \$2.0 million. The accumulated depreciation on the property amounted to approximately \$6.0 million resulting in a net book value of \$5.5 million. The property has an appraised value of approximately \$4.1 million. The Company placed the property with a broker to market and sell. After approximately two years the best offer received was \$1.6 million from a local Ashland businessman.

The Company believes KRS 278.218 also is inapplicable to this transfer. Although the original book value of the building exceeded \$1 million, neither of the two alternate additional predicates triggering Commission review apply. Like the Pikeville building, the Ashland Office building is being sold because workforce reductions have made it obsolete for utility purposes. Kentucky Power did not replace the building, but instead transferred the remaining personnel to

Mr. Thomas M. Dorman  
Page 3  
November 5, 2003

existing facilities. Moreover, the building will not be used by the Company, or to the Company's knowledge, any other entity for utility purposes.

Once you and the Commission staff have had a chance to review this request, please feel free to contact me at 502-696-7010 with any questions or requests for additional information. The Company anticipates closing on the Ashland Office Building transaction by December 31, 2003.

Sincerely,

A handwritten signature in black ink, appearing to read "Errol K. Wagner". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Errol K Wagner  
Director of Regulatory Services