

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE)	
JURISDICTIONAL STATUS OF SEVERAL)	CASE NO.
COMPANIES IN PIKE COUNTY, KENTUCKY)	2024-00271
AND OF THEIR COMPLIANCE WITH KRS)	
CHAPTER 278 AND 807 KAR CHAPTER 005)	

ORDER

On October 30, 2024, Appalachian Building Services, LLC (Appalachian Building) filed a response to the Commission’s opening Order issued on October 1, 2024, initiating this investigation. In Appalachian Building’s response, Appalachian Building argued that its involvement was limited to purchasing property from Kevin and Lesha Prater for purposes of building homes to sell.¹ Appalachian Building contended that it sold the land/homes at Zebulon Highway various times in 2009, 2011, 2013, and 2015 but had nothing to do with the sale of water or sanitary sewer services nor did it own any real property in the Zebulon Heights Community.² Appalachian Building sought “. . . to be dismissed as a party to this Investigation as they have no equitable or legal interest in this matter.”³

On February 28, 2025, Twin Diamond, LLC (Twin Diamond) filed a verified response to the Commission’s opening Order issued October 1, 2024, initiating this

¹ Appalachian Building’s Response to Public Service Commission Order 10-1-2024 (filed Oct. 30,2024)(Appalachian Building’s Response) at 1.

² Appalachian Building’s Response at 1.

³ Appalachian Building’s Response at 2.

investigation. In Twin Diamond's response, it argued that it was not a "utility" as defined by KRS 278.010(3) and contended that it did not provide service 'to the public' pursuant to KRS 278.010.⁴ Twin Diamond stated it provides water and sewer services to the tenants of the Village View Townhomes⁵ and owns a pump house⁶ which purchases water from Mountain Water District.⁷ Additionally, Twin Diamond admitted it sells that water to Prater Construction Inc. (Prater Construction).⁸ Twin Diamond requested that the Commission enter an order: (1) finding that Twin Diamond is not a utility subject to the Commission's jurisdiction, (2) finding that Twin Diamond did not violate KRS Chapter 278 or any Commission regulation promulgated thereunder, and (3) dismissing Twin Diamond from this proceeding.⁹

LEGAL STANDARD

KRS 278.260 provides the Commission has original jurisdiction over complaints as to rates or service of any utility. KRS 278.010(3) defines a utility which provides potable water as any person . . . who owns, controls, operates, or manages any facility used or to be used for or in connection with. . . (d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation.

⁴ Twin Diamond's Verified Response to the Commission's Order of October 1, 2024 (filed Feb. 28, 2025) (Twin Diamond's Verified Response) at 3.

⁵ Twin Diamond's Verified Response at 4.

⁶ Twin Diamond's Verified Response at 4. The pump house was purchased from Roopani Development Corporation,

⁷ Twin Diamond's Verified Response at 1-2.

⁸ Twin Diamond's Verified Response at 2.

⁹ Twin Diamond's Verified Response at 6.

Commission regulation 807 KAR 5:001 Sections 4(3)(b) and 19(6) specify that allegation of fact shall be supported by affidavit or shall be verified.

DISCUSSION AND FINDINGS

In the response filed by Appalachian Building, facts were alleged but not supported by affidavit or verified by a party. Twin Diamond argued that it was not a “utility”¹⁰ because it only provided water and sewer services to tenants and sold water to Prater Construction as opposed “to or for the public.”¹¹ The Commission finds that, at this point in the investigation, no party should be dismissed from this matter. Neither party has provided sufficient evidence, verified or otherwise, to make a determination about the material facts in question in the investigation.

Upon review of its records, the Commission finds that it has no record of approving any water service rates charged by any of the parties involved in this investigation. The Commission is in possession of two letters; in the first letter Twin Diamond informed Prater Construction that it was going to install its own meters and the second letter stated that Twin Diamond would be adding a \$450 per month surcharge and process fee for the use of its pump house for the Zebulon Heights Community.¹² In the second letter Prater Construction informed Daniel Isaac, a resident in the community, that he would incur an additional fee on his water bill of \$64.29 as of May 1, 2024, due to Twin Diamond’s purchase of the pump house.¹³

¹⁰ Twin Diamond’s Verified Response at 3.

¹¹ Twin Diamond’s Verified Response at 3.

¹² Order (Ky. PSC Oct. 1, 2024), Appendix A.

¹³ Order (Ky. PSC Oct. 1, 2024), Appendix B.


IT IS THEREFORE ORDERED that:


1. Appalachian Building's request to be dismissed as a party to this Investigation is denied.

2. Twin Diamond's requests as outlined in this Order are denied.

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PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ATTEST:


Executive Director



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