



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
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January 16, 1991

Hon. Richard F. Newell
Ogden, Sturgill and Welch
1200 One Riverfront Plaza
Louisville, Kentucky 40202-2973

Re: Illinois Municipal Electric Agency
Case No. 90-424

Dear Mr. Newell:

The Commission Staff has reviewed your December 19, 1990 letter, on behalf of the Illinois Municipal Electric Agency ("IMEA"), requesting an advisory opinion regarding certain legal implications of IMEA's pending purchase and ownership of 12.12 percent of the Trimble County Unit No. 1 Generating Plant ("Trimble County Unit No. 1") from the Louisville Gas and Electric Company ("LG&E"). Specifically, you ask whether the transactions as described in your letter will result in IMEA 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 IMEA's purchase and ownership of Trimble County Unit No. 1, IMEA's issuance of securities incident thereto, or IMEA's purchase and receipt of power and energy in proportion to its ownership interest.

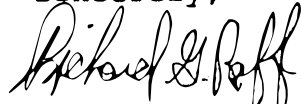
For the purpose of this advisory opinion, we rely on the statements and representations contained in your December 19, 1990 letter, as well as the documents appended thereto. IMEA, being an Illinois corporation which will not sell power and energy at retail in Kentucky, will not be a utility as currently defined by KRS Chapter 278, and will not be subject to this Commission's regulatory jurisdiction. Since IMEA will not be regulated under KRS Chapter 278, no Commission approval is necessary for IMEA to issue securities or to purchase and receive power and energy in proportion to its ownership interest.

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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 25 percent of Trimble County Unit No. 1, or for IMEA, which will not be subject to KRS Chapter 278, to own up to 25 percent.

We note that requests for advisory opinions are traditionally not docketed as formal cases but, through inadvertence, your request was so docketed. This error will be corrected by terminating the above-referenced case and placing your request, along with this advisory opinion, in our general correspondence file.

Sincerely,

A handwritten signature in cursive script that reads "Richard G. Raff".

Richard G. Raff
Staff Attorney