



Matthew G. Bevin
Governor

Charles G. Snively
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

James W. Gardner
Chairman

Daniel E. Logsdon, Jr.
Vice Chairman

J. Roger Thomas
Commissioner

January 19, 2016

PSC STAFF OPINION 2016-001

Ms. Rachel Cartmill
Office Manager, Reid Village Water District
PO Box 610
Mt. Sterling, KY 40353

Re: Reid Village Water District
Property Purchase for Office and Maintenance Building

Dear Ms. Carmill,

The Commission received on November 2, 2015, your letter dated October 27, 2015, in which you request on behalf of Reid Village Water District ("RVWD") an opinion regarding the need for a Certificate of Public Convenience and Necessity ("CPCN") for the purchase of property for use as an office and a maintenance building in Montgomery County, Kentucky. The Commission received on November 19, 2015, your letter dated November 16, 2015, in which you provided additional information concerning the proposed purchase.

Based upon your letter, Commission Staff understands the facts are as follows:

RVWD, a water district organized pursuant to KRS Chapter 74, provides water service to 1,132 customers in Clark and Montgomery Counties, Kentucky.¹

RVWD currently leases office space and does not have a maintenance building. Property across the street from the District's current offices is for sale, and the District would like to purchase the property. The property consists of .72 acres, and has two existing buildings. RVWD proposes to use one building as an office and the other building as an equipment storage and maintenance facility and office for its

¹ *Annual Report of Reid Valley Water District to the Kentucky Public Service Commission for the Year ended December 31, 2014 ("Annual Report")*, at 27.

field crew. The buildings would require construction of interior wall partitions and some electrical work in order to accommodate their intended uses. Full-time employees of RVWD would construct the partitions, and the electrical work would be contracted out. The electrical work and materials for the wall partitions would be out-of-pocket expenses.

RVWD has applied for an Infrastructure Revolving Loan (Fund B) from the Kentucky Infrastructure Authority. The load would have a thirty-year term.

RVWD wants to purchase the property because its current lease has expired, and because the building it currently occupies has mold issues. New office and maintenance facilities have been on the District's Project List with the Gateway Area Development District for several years. RVWD has applied for a Fund B infrastructure revolving loan to finance purchase of the property.

Your letter presents the following question: Must RVWD obtain a CPCN from the Commission for the proposed purchase?

KRS 278.020(1) provides:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

Because the property RVWD proposes to purchase already has structures on it that, with minimal renovation limited to interior work, are appropriate for use as office and maintenance facilities, there will be no construction of any facility for furnishing utility service to the public. Commission Staff is of the opinion that in these circumstances, no CPCN would be required for the purchase or minimal renovation of the existing structures.

RVWD, however, must obtain Commission approval prior to entering into the Infrastructure Revolving Loan (Fund B). KRS 278.300(1) provides:

No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission.

While KRS 278.300(8) exempts short-term notes from this requirement, the loan for which RVWD has applied has a thirty-year term, so the exemption would be unavailable.

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 B. Park, Commission Staff Attorney, at (502) 782-2589, or John.Park@ky.gov.

Sincerely,



Jeff Derouen
Executive Director

JP/ph