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March 16, 2016

Mike Sanford  
Mercer County Sanitation District  
801 Pleasant Hill Drive  
P.O. Box 303  
Burgin, KY 40310

Re: Red Barn Waste Management, LLC

**Staff Opinion No.  
2016-007**

Dear Mr. Sanford:

The Commission acknowledges receipt of your letter dated March 4, 2016.

In your letter you state that the Mercer County Sanitation District provides sanitary sewer service in Mercer County. You assert that 25 homes within Mercer County currently have inadequate and improperly operating septic tanks. Red Barn Waste Management, LLC ("Red Barn") operates a wastewater package treatment plant that could serve the homes, however, the plant is currently unable to serve additional homes in its present condition. Mercer County Sanitation District proposes to acquire Red Barn and replace the treatment plant as part of a larger sewer improvement project. Mercer County Sanitation District has notified the current Red Barn customers of the proposed transfer, but has not yet determined when the acquisition will occur. You state that Mercer County Sanitation District will advise the Commission when it is ready to transfer the facilities so that the Commission can initiate the transfer process.

Red Barn was formed on December 21, 2005.<sup>1</sup> It operates facilities used for the collection, transmission and treatment of sewage for the public for compensation and is therefore a utility subject to the Commission's jurisdiction.<sup>2</sup> Red Barn has been a utility

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<sup>1</sup> Case No. 2006-00284, *Application of Red Barn Waste Management, LLC for Approval of the Transfer of Ownership and Operating Interests of Chimney Rock Waste Management, LLC* at 2 (Ky. PSC Sept. 22, 2006).

<sup>2</sup> KRS 278.010(3)(f); 278.040(2).

since its September 22, 2006 acquisition of Chimney Rock Waste Management LLC's utility assets.<sup>3</sup>

KRS 278.020(5) provides that:

No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

KRS 278.020(6) further states in pertinent part:

No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission.

As Red Barn is a regulated utility subject to the Commission's jurisdiction, pursuant to KRS 278.020(5) and (6), Commission approval of the proposed transfer is required. Prior to any transfer, Red Barn either individually or jointly with Mercer County Sanitation District should submit an application to the Commission for approval to transfer. A checklist setting forth the items that must be filed with a transfer application is available on the Commission's website at the following address:

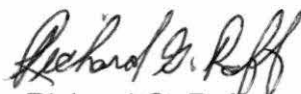
<http://psc.ky.gov/agencies/psc/forms/checklist/chk012.pdf>

Additionally, a sample transfer application may be viewed at the following address:

[http://psc.ky.gov/PSCSCF/2013%20cases/2013-00380/20131024\\_River%20Road%20Application.pdf](http://psc.ky.gov/PSCSCF/2013%20cases/2013-00380/20131024_River%20Road%20Application.pdf)

Questions concerning this letter should be directed to Jonathan Beyer, Commission Counsel, at (502) 564-3940.

Sincerely,



Richard G. Raff  
General Counsel

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<sup>3</sup> Case No. 2006-00284, *Application of Red Barn Waste Management*.