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September 8, 2022

**Staff Opinion 2022-012**

*Sent electronically to KaTarra.Taylor@Yardi.Com*

KaTarra Taylor  
Regulatory Compliance Auditor, Legal  
Yardi Systems, Inc.  
9910 Federal Drive, Suite 100  
Colorado Springs, CO 80921-3616

Ms. Taylor,

Commission Staff acknowledges receipt on July 22, 2022, of your email in which you ask whether a February 17, 2005 Staff Advisory Opinion regarding the ability of a landlord or its agent to resell utility service to tenants, either by sub-metering the service or estimating the tenant's usage, has been revised.

The February 17, 2005 Staff Advisory Opinion contained the following information:

Kentucky statute, KRS 278.010(3), defines a utility as "any person ... who owns, controls, operates or manages any facility used or to be used in connection with" the provision of electric, gas, water, telephone, or sewer service "to or for the public, for compensation." The PSC has previously determined that utility service that is offered only to a limited class, such as to tenants, is not being offered to or for the public. Therefore, if a landlord offers utility service only to its tenants, the landlord does not become a utility as defined in KRS 278.010(3) and neither the rates nor the terms of service are regulated by the Commission. However, some utilities have provisions in their tariffs which state that their service is being sold for consumption by the customer and not for resale. Thus, a landlord may be prohibited from reselling service if the supplying utility has a tariff that prohibits resale of service.

Electric service in Kentucky is subject to the above-referenced statute and also to a territorial boundary act, KRS 278.016-278.018. The territorial boundary act granted an exclusive franchise to each electric utility providing service in 1972. That

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act also prohibits anyone, except the holder of the franchise, from providing retail electric service in that territory unless the holder of the franchise has consented. Thus, a landlord cannot resell electric service to tenants without the express consent of the electric utility holding the franchise for that territory. However, some electric utilities have provisions in their tariffs that do authorize the resale of electricity under specified circumstances, including the terms under which electricity may be resold and the methods that may be used to calculate the rates for the resale. A review of each utility's tariff would have to be undertaken to determine which utilities permit electricity to be resold and the conditions for such resale.

Upon review of the relevant statutes, Commission Staff determined that there have not been any changes to KRS 278.010(3) or KRS 278.016–278.018 that would change the opinion set forth in the above Staff Advisory Opinion.

If you wish to review utility tariffs to determine which utilities permit electricity to be resold and the conditions for such resale, electric utility tariffs are available on the Commission's website (psc.ky.gov) at: <https://psc.ky.gov/Home/Library?type=Tariffs&folder=Electric>

This letter represents Commission Staff's interpretation of the law as applied to the facts as presented. The 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 Nancy J. Vinsel, General Counsel, at [nancy.vinsel@ky.gov](mailto:nancy.vinsel@ky.gov).

Sincerely,



Linda Bridwell, PE  
Executive Director