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DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
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OPINION 23-0074

Mr. Patrick Wartelle
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90-A-1 PUBLIC FUNDS & CONTRACTS

La. R.S. 33:4545.1 *et seq.* La. R.S. 33:4545.3
La. R.S. 33:4545.7

LEPA has the legal authority to sell power and supporting SCADA services to a municipality in Mississippi.

Dear Mr. Wartelle:

As the attorney for the Louisiana Energy and Power Authority ("LEPA"), you submitted an opinion request asking whether LEPA is statutorily authorized to sell LEPA's electricity and Supervisory Control and Data Acquisitions (SCADA) services to a municipality in Mississippi.

In short, the answer is yes, because LEPA has specific statutory authorization to sell electricity and related services, such as SCADA services for electronic meter management, to municipalities in other states.

LEPA is governed by Louisiana Revised Statutes Title 33, Chapter 10-a, titled "Louisiana Energy and Power Authority." This Chapter includes statutes La. R.S. 33:4545.1 through La. R.S. 33:4545.37.

Louisiana Revised Statute 33:4545.7 contains the rights and powers granted to LEPA by the legislature. Most pertinently, it states:

A. The Authority shall have all of the rights and powers necessary to carry out and effectuate the purposes and provisions of this chapter. Without limiting the generality of the foregoing, the Authority, as a political subdivision of the state of Louisiana with full corporate powers, shall have the following rights and powers:

...

14. To fix, charge and collect rents, rates, fees and charges for output or capacity of any project and for the use of or for the other services, facilities and commodities sold, furnished or supplied through any project.

...

16. To generate, produce, transmit, deliver, exchange, purchase or sell electric power and energy at wholesale, and to enter into contracts for any or all such purposes.

17. To enter into contracts for the purchase, sale, exchange, interchange, wheeling, pooling or transmission, storage of electric power and energy and fuel with *any unit within or without the state*.

...

23. To make and execute contracts and other instruments necessary in the exercise of the powers and functions of the Authority under this Chapter, including contracts with persons, firms, corporations and others.

...

26. To do all acts and things necessary to carry out the purposes and to exercise the powers granted to the Authority herein.

(Emphasis added.) "Unit" is defined in Chapter 10-a, "Louisiana Power and Energy Authority," as:

any governmental unit, any investor-owned electric power company and any electric cooperative association or corporation and, in addition, any state, any department, institution, commission, public instrumentality or political subdivision *of any state*, or of the United States presently owning a system or facilities for the generation, transmission or distribution of electric power and energy for public and private uses.

La. Rev. Stat. Ann. § 33:4545.3(8) (emphasis added). These statutes are clear that the legislature intended for LEPA to be able to sell power to municipalities in other states, including Mississippi.

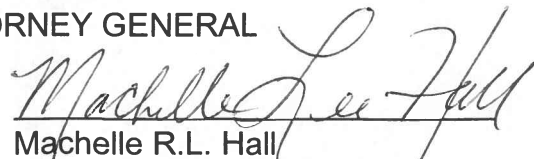
SCADA is a computer-based system for gathering and analyzing real-time data to monitor and control equipment that deals with critical and time-sensitive information. In this case, your letter states that LEPA's SCADA services are electric meter management for power sales. This service is a necessary service to support the power sales. Therefore, under La. R.S. 4545.7(A)(14),(16),(17),(23), and (26), LEPA is authorized to sell these SCADA services to support the power sales to a municipality in Mississippi.

We trust that this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JEFF LANDRY
ATTORNEY GENERAL

By:


Machelle R.L. Hall
Assistant Attorney General