OKLAHOMA TAX COMMISSION

TAX POLICY AND RESEARCH DIVISION
TONY MASTIN, DIRECTOR

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September 28, 2006

Re: Our File Number LR-06-101; Sales Tax on the Sale of Water by a Public Utility

Dear

This is in response to your inquiry concerning the sales of which you state has been determined by the Oklahoma Corporation Commission to be a public utility.

Subsection 2 of Title 68 O.S. Section 1354 levies sales tax on "Natural or artificial gas, electricity, ice, steam, or any other utility or public service, except water, sewage or refuse."

I have set out the questions contained in your letter below and each is followed by our response which is based on this section of the sales tax code.

Question 1 purchases water from the City of Lawton and sells the water for residential consumption to homeowners outside of the Lawton city limits in Comanche County. The water is delivered by pipeline to the various residences. Is the above sale of water subject to state, county, and/or city sales tax?

Response to Question 1: No.

Question 2 also sales irrigation water (nonpotable water) drawn from a lake(s) to residential customers outside the Lawton city limits in Comanche County. This water is delivered by pipeline also. Is this sale of water subject to state, county, and/or city sales tax?

Response to Question 2: If the sale is the sale of a public utility or public service, it is exempt.

Question 3 is negotiating with the , a membership organization, for the sale of potable water from wells. It is anticipated that the water will be delivered to storage facilities by pipeline and that will pipe the water

into the members' homes and stock tanks. Will the sale of potable water to for household and/or farm use be subject to state, county, and/or city sales tax?

Response to Question 3: No, not only is the sale, a sale of a public utility or a public service, it is also a sale to a Rural Water District, and sales to Rural Water Districts are exempt from sales tax pursuant to 68 O.S. Section 1356(10).

This response applies only to the circumstances set out in your request of June 23, 2006. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon **only** by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

If I can be of further assistance, please feel free to contact me.

Sincerely,
OKLAHOMA TAX COMMISSION

Michael G. Pillow
Tax Policy Analyst