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**State of Louisiana**  
DEPARTMENT OF JUSTICE  
CIVIL DIVISION  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

January 4, 2023  
OPINION 22-0080

90-A-1 Public Funds & Contracts

Honorable Nick Cox  
Mayor, City of Minden  
P.O. Box 580  
Minden, Louisiana 71058

La. R.S. 33:4164

Louisiana Revised Statute 33:4164(B) precludes municipalities from entering in to any contract with a private entity for the purchase of utilities for a term greater than fifteen (15) years.

Dear Mayor Cox:

You have requested an opinion of the Attorney General's office concerning a wholesale power agreement between the City of Minden ("City") and Southwestern Electric Power Company (SWEPCO). In 2007, the City signed a wholesale power agreement with SWEPCO for a term of twenty (20) years. This agreement is set to expire in 2028. You note that La. R.S. 33:4164(B) precludes municipalities from entering into any contract with a private entity for the purchase of utilities for a term greater than fifteen (15) years. Specifically, you have asked the following questions:

1. Would any attempt by SWEPCO to enforce the agreement beyond the fifteen (15) year mark be in violation of La. R.S. 33:4164(B)?
2. Would the City bear any liability for a termination of its contract at the fifteen (15) year mark?

We recognize that La. R.S. 33:4164(B) sets a limit to the term of a contract between a municipality and a private entity for the purchase of utilities by providing the following:

Municipalities may obtain water or electric current under contracts extending over a maximum period of fifteen years with private persons, on such terms and conditions as may be agreed upon by the parties. The governing authority of the municipality contracting for such water supply or electric current may bind the municipality, the governing authority and its successors in office to carry out the terms of any such contract.

Here, we are advised that the term of the current contract between the City and SWEPCO exceeds the time limitation set forth in La. R.S. 33:4164. Nonetheless, there is currently a contract in place between the City and SWEPCO. Thus, the answer(s) to both of your questions would require an interpretation of the specific language contained within the contract (i.e., termination provisions, severability clauses, etc.). As such, we cannot opine as to what would happen should either of the aforementioned scenarios occur. In this situation, there is an existing or potential contract dispute between two parties (the City

and SWEPCO). Any such dispute must ultimately be resolved by the parties to the contract or by the courts.

Accordingly, it is the opinion of this office that La. R.S. 33:4164(B) precludes municipalities from entering into any contract with a private entity for the purchase of utilities for a term greater than fifteen (15) years. Any disputes or resolutions of matters involving a contract that is already in place must be left to the parties of the contract.

If our office can be of any further assistance, please do not hesitate to contact us.

Yours very truly,

JEFF LANDRY  
ATTORNEY GENERAL

BY:



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Assistant Attorney General