

FILE

Subject

*Antitrust, Public  
Regulations*

Copy to



STATE OF KANSAS

*Office of the Attorney General*

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER  
Attorney General

January 21, 1974

Opinion No. 74- 21

Gerald C. Golden  
Meade County Attorney  
P.O. Box "R"  
Meade, Kansas 67864

Dear Mr. Golden:

You advise that the cities of Meade and West Plains, and Meade County, have joined together to form through an interlocal agreement previously approved by this office an organization known as Meade County Utility, for the purpose of providing collection services for solid waste, trash and garbage of the citizens of the two cities. These cities have established the fees to be charged for the collection services to be provided by the Utility, and have further determined that charges will be billed and collected by the respective cities. It has been further determined by the cities that the charges will be billed on a combined utility bill, and that a request for any one of the utility services offered by a city will be deemed to be a request for the solid waste service, and that failure to pay the charge for solid waste service will be deemed grounds for terminating all services.

In an opinion dated March 8, 1973, the Attorney General considered the question whether a city may lawfully act as a collection agency for a privately owned utility, in that instance, the Kansas Power and Light Company. The question was considered in the context of decisions of the Kansas Supreme Court articulating a strong public policy that municipal corporations could not engage in commercial enterprises. The collection of debts for a private business is a necessary incident to that business, and as such, one which the municipal corporation could not undertake in behalf of the corporation.

You question whether the billing practice described in your letter conflicts with the cited opinion. In our view, it does not. In this instance, the city is itself billing charges for

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services which the city is itself providing, albeit through a separate entity with which the city has contracted. The practice whereby the city collects the charges for such a municipal service provided under its aegis is in our view fully consistent with the prohibition against engaging in commercial activities, notwithstanding the charges thus collected are remitted to the contractor as payment for its services.

Yours very truly,



VERN MILLER  
Attorney General

VM:JRM:jsm