

April 20, 2000

OPINION NUMBER 00-115

Honorable Mike Smith
State Senator
Post Office Box 1381
Winnfield, LA 71483

Honorable Joe R. Salter
Louisiana House of Representatives, District 24
P.O. Box 250
Florien, Louisiana 71249

Dear Senator Smith and Representative Salter:

You have requested an Attorney General's opinion as to whether or not the Valley Electric Membership Corporation (hereinafter, VEMC) and the Valley Electric Board (hereinafter, the Board) are subject to the Louisiana Open Meetings Law, LSA-R.S. 42:4.1, et seq.

In your letter you stated that VEMC is a member owned cooperative association that is regulated by the Public Service Commission. Our office has also learned, after speaking with Mr. Jesse Hoffpauier, General Manager of VEMC, that VEMC does not receive any federal or state funds to assist them in running the cooperative nor are any of the board members appointed by a governmental official.

LSA-R.S. 42:4.2(A)(2) defines a public body as:

(2) "Public body" means village, town, and city governing authorities; parish governing authorities; school boards and boards of levee and port commissioners; boards of publicly operated utilities; planning, zoning, and airport commissions; and any other state, parish, municipal, or special district boards, commissions, or authorities, and those of any political subdivision thereof, where such body possesses policy making, advisory, or administrative functions, including any committee or subcommittee of any of these bodies enumerated in this paragraph.

While at first glance these statutes seem to include VEMC, the First Circuit Court of Appeals made clear in *Hunerjager v. Dixie Electric Membership Corporation*, 434 So.2d 590 (Ct. App. 1st 1983), that electric cooperatives did not fall under this provision:

Having explicitly included the boards of “publicly operated utilities” within the Open Meetings Law, it stretches the imagination to conclude that the Legislature further intended private electric cooperatives to be covered by the statutes as an “authority.” Thus, we conclude that the term “public body” does not encompass [Dixie Electric Membership Corporation].”

The Court based this decision on the fact that Dixie Electric Membership Corporation did not receive support from government funds nor did it engage in “a direct governmental function such as public education or antipoverty programs.”

VEMC is a private electric cooperative that does not receive any public funds or engage in any public function. Therefore, it is the conclusion of this office that VEMC is not subject to the Louisiana open meetings law.

I trust this addresses your concerns. Please contact this office should you request any further assistance.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

By: _____
CARLOS M. FINALET, III
Assistant Attorney General

RPI:CMF:gbl

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90-B-4 Public Meetings – State & Local Governing Bodies

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Honorable Mike Smith
State Senator
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Date Received:

Date Released: April 20, 2000

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