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October 26, 2005

Sherman Goodpaster III, Esq.  
East Kentucky Power Cooperative  
Post Office Box 707  
Winchester, Kentucky 40392-0707

Re: Replacement-Upgrading of Smith-Hunt-Sideview Line

Dear Mr. Goodpaster:

Commission Staff acknowledges receipt of your letter of October 7, 2005, in which you request an opinion on whether East Kentucky Power Cooperative's ("EKPC") proposed replacement and upgrading of its Smith-Hunt-Sideview 69 kV electric transmission line requires the issuance of a certificate of public convenience and necessity.

In your letter, you present the following facts:

EKPC's Smith-Hunt-Sideview 69 kV electric transmission line is approximately 18 miles long and is located on a 100-foot wide right of way. It is supported by wooden single pole structures, wooden H-frame structures and some 3-pole wooden angle structures. The line is a single-circuit 69kV electric transmission line and was constructed in the 1950s.

EKPC proposes to replace and upgrade this line with a double-circuit 345kV/69kV electric transmission line. The upgraded line will be supported by steel H-frame structures and steel 3-pole angle structures. Because of the line's higher voltage, EKPC will acquire an additional 50 feet of right of way. EKPC intends to place the upgraded line upon the same centerline as the existing line for most of the entire length of existing line with the additional 50 feet of right of way consisting of 25 feet on each side of the existing right of way.

In approximately 6 locations along the existing right of way, however, property owners constructed residences and other structures immediately adjacent to the existing right of way after the construction of the existing transmission line. At these locations, expansion of the

existing right of way by 25 feet in the direction of these structures would require the acquisition and destruction of these structures. To avoid this result, EKPC proposes to acquire the entire 50 feet of additional right of way on the side of the right of way away from these structures and then adjust the centerline accordingly so as to provide adequate clearance from these structures.

In two locations, EKPC will locate the 345 kV circuit of the new transmission line on a separate and new centerline. The first of these is required to bypass the existing Hunt Station. The second of these is required to extend the 345 kV circuit beyond the Sideview substation to the point of interconnection with EKPC's existing 345 kV Spurlock-Avon transmission line. The total length of these sections of new centerline will be less than 4,000 feet.

Your letter presents the following issue: Does the proposed construction require a certificate of public convenience and necessity?

KRS 278.020(1) provides in pertinent part:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

KRS 278.020(2) provides:

For the purposes of this section, construction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eighty (5,280) feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate of public convenience and necessity. However, ordinary extensions of existing systems in the usual course of business not requiring such a certificate shall include . . . [t]he replacement or upgrading of any existing electric transmission line;

Based upon its review of these statutes, Commission Staff is of the opinion that the proposed construction is a replacement and upgrading of an existing transmission

line and will not require a certificate of public convenience and necessity. The proposed line and supporting structures generally do not supplement or expand existing electric transmission lines, but rather replaces those transmission lines and supporting structures with higher voltage lines and the required supporting facilities. With minor deviations, the proposed transmission line follows the same route and is situated on the same right of way as the existing transmission line that it will replace. While the proposed upgrade will require the construction in two instances of additional transmission line, the length of this line will not exceed 5,280 feet.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues be formally presented for Commission resolution. Questions concerning this opinion should be directed to Gerald Wuetcher, Assistant General Counsel, at (502) 564-3940, Extension 259.

Sincerely,

A handwritten signature in black ink, appearing to be "Beth O'Donnell", written over a light gray rectangular background. The signature is fluid and somewhat abstract, with overlapping loops and lines.

Beth O'Donnell  
Executive Director