



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

David L. Armstrong
Chairman

James Gardner
Vice-Chairman

John W. Clay
Commissioner

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

December 12, 2008

Mr. Max Phipps
South Central Rural Telephone Cooperative Corporation
Post Office Box 159
Glasgow, Kentucky 42142-0159

Re: Extension of System

Dear Mr. Phipps:

Commission Staff acknowledges receipt of your letter of August 26, 2008 in which you request an opinion regarding the need for a certificate of public convenience and necessity for planned upgrades to South Central Rural Telephone Cooperative Corporation's ("SCRTC") existing system.

Based upon your letter, Commission Staff understands the facts as follows:

SCRTC, a telephone cooperative organized pursuant to KRS Chapter 279, owns and operates facilities that transmit and convey messages by telephone to persons in nine Kentucky counties. As of December 31, 2007, it had 27,750 customer access lines in service and \$139,566,586 of total telephone plant in service. SCRTC proposes to extend fiber to support advanced services, including broadband, into seven of its sixteen exchanges. As part of this plan, SCRTC will systematically replace equipment whose manufacturers no longer provide support for expansion or upgrades. It further will test an IP access platform to continue to support existing analog telephone services while providing the support base for copper bonding and fiber deployment of IP based services. Total cost of this proposal is \$2,500,000. SCRTC expects to fund this proposal with internal funds. The proposed deployment will not require a rate adjustment. SCRTC will not issue any evidences of indebtedness.

Your letter presents the following question: Must SCRTC obtain a certificate of public convenience and necessity for the proposed extension?

KRS 278.020(1) provides:

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.

Administrative Regulation 807 KAR 5:001, Section 9(3), further provides:

Extensions in the ordinary course of business. No certificate of public convenience and necessity will be required for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general area in which the utility renders service or contiguous thereto, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

Commission Staff is of the opinion that the proposed deployment is in the ordinary course of business and would not require a certificate of public convenience and necessity. According to its Annual Report, SCRTC had total telephone plant of \$139,566,586.¹ The proposed fiber deployment represents an increase in SCRTC's telephone plant of 1.8 percent. Such a small increase in utility plant is considered ordinary. See, e.g., City of Covington v. Board of Commissioners of Kenton County Water District No. 1, 371 S.W.2d. 20 (Ky. 1963). The total cost of the proposed deployment represents less than 10 percent of SCRTC's annual revenues and approximately 26.8 percent of SCRTC's net operating revenues for the year ending December 31, 2007.² Moreover, as the funds for the proposed deployment will come from internal sources and will not require the issuance of additional debt or increased charges to customers, the proposed improvements do not appear to materially affect SCRTC's financial condition.

¹ Annual Report of South Central Rural Telephone Cooperative, Inc. to the Kentucky Public Service Commission for the Year Ended December 31, 2007 at 2.

² *Id.* at 3.

Mr. Max Phipps
December 12, 2008
Page 3

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 herein 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 read 'DS Samford', written in a cursive style.

David S. Samford
Deputy Executive/General Counsel