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February 26, 2009

Ms. Regina Rapiere Beckman
Fulton, Hubbard & Hubbard
117 East Stephen Foster Avenue
P.O. Box 88
Bardstown, KY 40004-0088

PSC Opinion 2009-001

Re: Salt River Electric Cooperative Corp.
Office and Garage Improvement Project

Dear Ms. Beckman:

Commission Staff acknowledges receipt of your letter of January 25, 2009, in which you request an opinion regarding the need for a Certificate of Public Convenience and Necessity for a planned project by Salt River Electric Cooperative Corporation ("Salt River") to improve its warehouse and storage facilities located in Shepherdsville, Bullitt County, Kentucky.

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

Salt River, an electric utility cooperative corporation organized pursuant to KRS Chapter 279, provides retail electric service to 27,672 member customers in Bullitt and Spencer Counties (as well as to 16,755 member customers in Nelson, Washington, Anderson, Larue, Mercer, Shelby, Marion, and Jefferson Counties). It proposes to expand its existing Shepherdsville storage facility by approximately 7,500 square feet. Salt River also proposes to expand the existing vehicle parking area at the Shepherdsville facility by approximately 3,250 square feet.

The Shepherdsville improvement project will accommodate additional space for storage of Salt River vehicles such as diggers and bucket trucks and valuable materials such as copper conductors and OCRS. Vandalism and theft of copper materials has become a growing problem.

for a number of utilities, including Salt River. The bid for the storage area improvements is approximately \$561,820.

In addition, the project will address problems with drainage in the existing parking lot and the installation of needed asphalt. Concrete floors are needed for vehicle parking in the storage area as well. The estimated cost for the parking lot repairs and storage area floor is \$83,250.

The electric cooperative will pay for the estimated \$645,070 of costs for the project from its general reserve funds. No loans will be needed to fund the project. Salt River owns all of the property upon which the improvements would be built, so it will not need to purchase any additional land to make the proposed improvements. Salt River's Board of Directors has voted to approve the project, and the project will not cause Salt River to seek a rate increase.

Your letter states that "Salt River believes that since this is not a new building project or purchase of land that a certificate of convenience is not necessary," and you request the Commission's concurrence with Salt River's opinion in that regard. There is no statutory provision that permits the Commission to grant a waiver for the requirement of obtaining a Certificate of Public Convenience and Necessity. KRS 278.020, however, exempts ordinary extensions in the usual course of business from the certificate requirements. As such, Commission Staff interprets your letter as presenting the following question: Must Salt River obtain a Certificate of Public Convenience and Necessity for the proposed project?

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 opines that the proposed construction is in the ordinary course of business and would not require a Certificate of Public Convenience and Necessity. According to its 2007 Annual Report, Salt River had net utility plant of \$67,081,079.¹ The proposed construction, therefore, represents an increase of approximately 0.9 percent of Salt River's net utility plant. Such a small increase in net utility plant is considered as 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). Moreover, the effect of the construction on the utility's financial condition appears minimal. The utility will not incur additional debt to finance the cost of the proposed construction and will not need to purchase any additional land.

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 Rick Bertelson, Staff Attorney, at (502) 564-3940, Extension 260.

Sincerely,



Jeff Derouen
Executive Director

RB/ew

cc: Salt River Electric Cooperative Corporation

¹ Annual Report of Salt River Electric Cooperative Corporation to the Kentucky Public Service Commission for the Year Ended December 31, 2007, at 1.