



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

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

David L. Armstrong  
Chairman

James W. Gardner  
Vice Chairman

Charles R. Borders  
Commissioner

July 14, 2010

Hon. Robert Spragens, Jr.  
Spragens & Higdon, P.S.C.  
Attorneys at Law  
P.O. Box 681  
15 Court Square  
Lebanon, Kentucky 40033-0681

**PSC STAFF OPINION NO. 2010-015**

Re: Taylor County Rural Electric Cooperative Corporation  
Building Replacement

Dear Mr. Spragens:

The Commission Staff is in receipt of your letter of June 14, 2010 wherein you responded to Commission Staff questions with regards to Taylor County Rural Electric Cooperative Corporation's ("Taylor County") proposed replacement of a service/storage building that was destroyed on October 8, 2009 due to tornado-like activity in the area near Liberty, Casey County, Kentucky.

Your initial letter requested a staff legal opinion that no Certificate of Public Convenience and Necessity under KRS 278.020(1) is necessary in order for Taylor County to replace the service/storage building that was destroyed. Your June 14, 2010 letter indicated that plans and specifications for construction on the same lot of a 42-foot x 60-foot commercial steel building have been completed and that Taylor County intends to accept a bid of \$78,900.00 to construct that building.

Further, you stated that, as soon as the new building can be occupied, Federated will reimburse Taylor County for the rental cost of the temporary facility that it has rented. Finally, you stated that Taylor County will not incur additional debt in replacing this facility and that completion of the project will not require an immediate rate increase.

807 KAR 5:001, Section 9(3), states as follows:

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.

Based upon the information you have provided, it does not appear that the proposed replacement of the service/storage building that was destroyed on October 8, 2009 will create wasteful duplication of plant, equipment, property, or facilities.

Further, it does not appear that the proposed replacement of the building in question will conflict with 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 the area contiguous thereto.

Finally, it does not appear that the proposed replacement of the building in question will involve sufficient capital outlay to materially affect the existing financial condition of the utility involved nor result in an immediate rate increase.

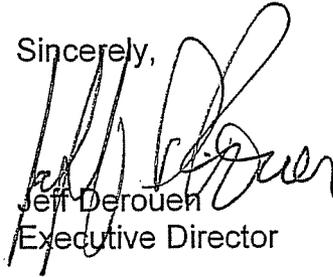
As such, based on the facts presented, it appears that the proposed replacement of a service/storage building that was destroyed October 8, 2009 due to tornado-like activity in the area near Liberty, Casey County, Kentucky is an extension in the ordinary course of business as that term is used in KRS 278.020(1) and 807 KAR 5:001, Section 9(3), and that a Certificate of Public Convenience and Necessity is not required for Taylor County to replace the service/storage building in Liberty, Kentucky.

This letter response represents Commission Staff's opinion of the law as applied to the facts you have presented in your letters. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for resolution by the Commission.

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Please feel free to contact Faith Burns at 502-564-3940, Ext. 235, if further questions or issues arise.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen". The signature is fluid and cursive, with a large initial "J" and "D".

Jeff Derouen  
Executive Director

FB/ew