



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

Linda Breathitt
Commissioner

July 16, 2012

G. Kelly Nuckols
President and CEO
Jackson Purchase Energy
2900 Irvin Cobb Drive
P. O. Box 4030
Paducah, KY 42002-4030

PSC STAFF OPINION 2012-0014

Re: Jackson Purchase Energy Corporation's 2012-2015 Construction Work Plan

Dear Mr. Nuckols,

Commission Staff acknowledges receipt of the 2012-2015 Construction Work Plan ("CWP") submitted July 5, 2012 on behalf of Jackson Purchase Energy Corporation ("Jackson Purchase"). Pursuant to the Commission's recent decision that each construction project contained in a CWP should be analyzed on an individual basis to determine whether that individual project is exempt from the requirement in KRS 278.020(1) to obtain a Certificate of Convenience and Necessity ("CPCN"), Commission Staff has met and reviewed the projects contained in Jackson Purchase's CWP. This letter represents Commission Staff's opinion, which is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution.

As with all legal opinions requesting a determination of the "ordinary extensions of existing systems in the usual course of business" exemption from the requirement of a CPCN, Commission Staff's review does not consider the reasonableness or the need for the project. Thus, it is possible for a project not previously approved in a CPCN or other case to be denied recovery in a rate case if found to be unreasonable or unnecessary.

The Commission has, and continues to apply the CPCN requirement to construction projects unless a particular project falls within two exemptions. KRS 278.020(1) exempts from prior approval through CPCN "retail electric suppliers for service connections to electric consuming facilities within its certified territory" and "ordinary extensions of existing systems in the usual course of business."

The Commission has defined "ordinary extensions of existing systems in the usual course of business" by regulation found in 507 KAR 5:001 § 9(3):

No certificate of public convenience or 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.*** (Emphasis added).

The "ordinary course of business" exemption is the focus of Commission Staff's advisory opinion in reviewing each of the construction projects in Jackson Purchase's CWP. Commission Staff has determined that all but one project in Jackson Purchase's CWP meets the "ordinary course of business" exemption from the CPCN requirement.

Based on the information provided in the CWP, Commission Staff is unable to conclude whether the project designated as **SCADA/DA – Hardware and Communication Equipment – RUS Code 703** satisfies the "ordinary course of business" exemption. As stated previously, all other construction projects contained in the CWP for 2012-2015 have been determined by Commission Staff to fall within the "ordinary course of business" exemption. Therefore, construction can commence on those projects.

The **SCADA/DA -- Hardware and Communication Equipment – RUS Code 703** project raises several questions. Commission Staff is unable to determine whether this project is an upgrade of existing systems or an installation of an entirely new system. Staff is also unable to determine whether the cost of \$435,000 is for the entire project which will be completed by 2015 or, if this project is an initial phase of a project with subsequent phases in future CWPs.

At this juncture, Jackson Purchase may submit additional information for Commission Staff's further consideration or file an application for a CPCN for the **SADA/DA - Hardware and Communication Equipment - RUS Code 703** project. As a reminder, before any construction can begin on this project, a CPCN from the Commission must be granted or a staff opinion issued determining the project an "ordinary course of business" exemption. Jackson Purchase should also be mindful of

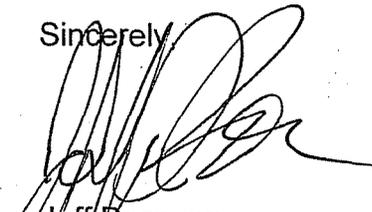
G. Kelly Nuckols
July 16, 2012
Page 3

the requirements of KRS 278.300 that any indebtedness outside the supervision or control of the federal government must be authorized by the Commission.

Should you have any questions, please contact Aaron Greenwell, Deputy Executive Director, at 502-564-3940, Ext. 273.

We appreciate the effort put forth in Jackson Purchase's CWP and its willingness to be the first Kentucky electric distribution cooperative to seek review under the new process.

Sincerely,



Jeff Derouen
Executive Director

HCH/kar