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September 11, 2012

Hon. John N. Hughes
124 West Todd Street
Frankfort, Kentucky 40601

PSC STAFF OPINON 2012-019

RE: Natural Energy Utility Corporation
Staff Opinion Request
Need for Certificate of Public Convenience and Necessity

Dear Mr. Hughes:

Commission Staff is in receipt of your letter sent on behalf of Natural Energy Utility Corporation ("NEUC") dated August 17, 2012. In this letter you request an assessment of whether NEUC's extension of a natural gas main to the site of the new Boyd County High School can be considered in the ordinary course of business or if a certificate of public convenience and necessity ("CPCN") from the Commission is required prior to beginning work on the project.

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.

In determining whether a project is in the ordinary course of business, KRS 278.020(1) provides, in relevant part, as follows:

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 ... 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.

807 KAR 5:001, Section 9(3) provides 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.

Whether a given project is considered "in the ordinary course of business" is fact specific and is examined in the context of several factors, including (1) whether there will be wasteful duplication of plant, including interference with another utility's certificates or services; (2) whether the capital required is so minimal that it will not "materially" affect the financial condition of the utility in question; and (3) whether the rates will increase as a result of the construction.

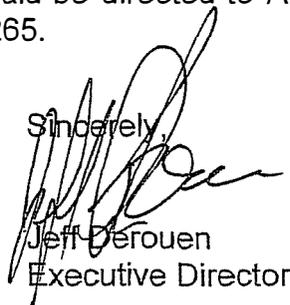
The details you outlined in the August 17, 2012, letter are as follows:

1. The purpose of the extension is to provide a stand-by fuel supply for a gas fired generator in the event of an electrical outage at the school.
2. A special contract will be filed with the Commission outlining the terms and conditions of providing the service.
3. The total amount of the project is to be funded by the Department of Education and Boyd County High School.
4. The estimated total cost is \$105,000.00.
5. NEUC's total plant in service is approximately \$6.5 million.
6. The project will have no impact on debt, operating costs, ongoing operations of the company or customer rates.
7. The planned project consists of 16,000 feet of two inch plastic pipe.
8. There are no other gas lines on the property.
9. Columbia Gas has gas facilities in the area of the new school, but has declined to extend its facilities.

Based on the information contained in your letter, Commission Staff's opinion is that this project would be in the ordinary course of business and would not require a CPCN from the Commission. It appears that this project would not be a wasteful duplication of facilities, would not materially affect the financial condition of NEUC, and would not have an impact on customer rates.

Questions concerning this opinion should be directed to Allyson Honaker, Staff Attorney, at (502) 564-3940, extension 265.

Sincerely,



Jeff Derouen
Executive Director