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October 25, 2012

Mr. Steve Thompson
Vice President – Finance & Accounting
Kenergy
P.O. Box 1389
3111 Fairview Drive
Owensboro, Kentucky 42302-1389

PSC STAFF OPINION 2012-027

RE: Request for Legal Staff Opinion
New Enterprise Software Implementation
Including Customer Information System

Dear Mr. Thompson:

Commission Staff acknowledges receipt of Kenergy's letters dated August 15, 2012 and October 10, 2012 requesting a staff advisory opinion concerning whether Kenergy's proposed implementation of a new enterprise software, including a customer information system, requires a Certificate of Public Convenience and Necessity ("CPCN").

This letter responds to your request. It represents Commission Staff's interpretation of the law as applied to the facts presented. This Opinion is advisory in nature and not binding upon the Commission should the issues presented 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.

Commission Staff understands the facts as follows:

Kenergy is planning to implement a new enterprise software, including a customer information system. The total amount to be capitalized for the project is estimated to be \$200,000, which will be provided from internal funds. The ongoing monthly cost is stated to be \$16,000. The projected timeframe for implementation of the project is: (1) a letter of authorization/contract in the November, 2012 – December, 2012 timeframe; (2) software conversion to begin in the January, 2013 – February, 2013 timeframe; (3) hardware on site in the April, 2013 – May, 2013 timeframe; (4) going live with new software to begin in the September, 2013 – October, 2013 timeframe.

Kenergy has narrowed the vendor selection to the National Information Solutions Cooperative (“NISC”) and Southeastern Data Cooperative, Inc. (“SEDC”). Kenergy states that the projected up-front costs and the ongoing monthly costs will not have an impact on rates.

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 located within its certified territory and ordinary extensions of existing systems in the usual course of business” The Commission has defined extensions in the ordinary course of business by regulation found at 807 KAR 5:001, Section 9(3).

That regulation provides that, “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.”

A review of Kenergy’s financial report filed January 1, 2011, indicates that as of that date, Kenergy had Total Electric Operating Revenues of \$425,616,053.12; Net Income from Electric Operations of \$2,892,729.61; Net Income of \$3,867,803.50. The

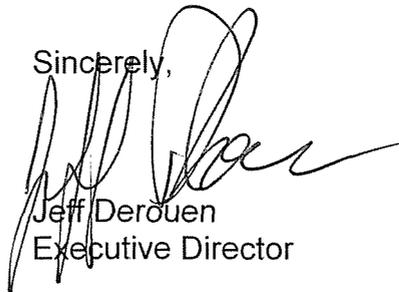
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Net Book Value of Kenergy's plant as indicated in its January 1, 2011 filing was \$182,893,845.40.

Commission staff has determined that Kenergy's implementation of a new enterprise software, including a customer information system, does 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 Kenergy renders service or contiguous thereto, and that this project does not involve sufficient capital outlay to materially affect the existing financial condition of Kenergy, nor will it result in increased charges to its customers. As such, Commission staff has determined that Kenergy's implementation of a new enterprise software, including a customer information system, satisfies the "ordinary course of business" exemption from the CPCN requirement. Therefore, construction can commence on this project.

Thank you for your October 10, 2012 response to Commission Staff's questions. Should you have any questions or concerns, please contact Staff Attorney Faith Burns at 502-564-3940, Ext. 235.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen", written over the typed name and title.

Jeff Derouen
Executive Director

FB/kar