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November 2, 2012

Mr. Burns Mercer  
President and CEO  
Meade County Rural Electric Cooperative Corporation  
P.O. Box 489  
Brandenburg, KY 40108-0489

**PSC STAFF OPINION 2012-028**

RE: Meade County RECC's 2013-2015 Construction Work Plan

Dear Mr. Burns:

Commission Staff acknowledges receipt of your letter dated October 18, 2012, on behalf of Meade County Electric Cooperative Corporation ("MCRECC"), in which you request an opinion as to whether any or all projects defined in MCRECC's 2013-2015 Construction Work Plan ("CWP") require a Certificate of Public Convenience and Necessity ("CPCN") or whether the projects fall within the "ordinary course of business" exemption and, therefore, do not require a CPCN.

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 CPCN, Commission Staff has met and reviewed the projects defined in MCRECC's 2013-2015 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.

According to its CWP, MCRECC proposes the following construction identified by the RUS codes: (1) Code 100 new distribution line with the estimated cost of

\$5,605,692; (2) Code 300 line conversion and replacement with the estimated cost of \$514,179; (3) Code 400 new substations with the estimated cost of \$1,085,000; (4) Code 500 substation improvements with the estimated cost of \$1,223,205; (5) Code 600 miscellaneous equipment and poles with an estimated cost of \$13,633,862; and (6) Code 700 outdoor lights and AMI and SCADA with the estimated cost of \$976,677.<sup>1</sup> The total estimated cost of the projects contained in MCRECC's 2013-2015 CWP is \$23,048,615. Each of the RUS Codes contains various projects with the total estimated cost of all projects contained in MCRECC's 2013-2015 CWP of \$23,048,615.

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 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.

Regarding the exception to the CPCN requirement, Administrative Regulation 807 KAR 5:001, Section 9(3) provides, in full, 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.

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<sup>1</sup> The AMI meters included in the projects referenced by RUS Code 600 in this CWP are for replacements and new services. In Case No. 2002-00124, the Commission by Order dated July 12, 2002 approved MCRECC's AMI program.

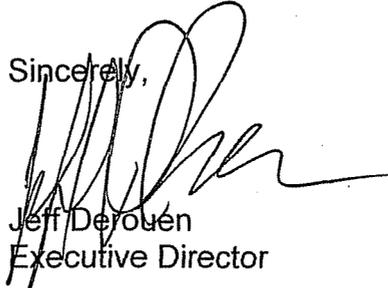
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Thus, the regulation provides for three areas of inquiry: (1) whether there will be wasteful duplication of plant, including interference with another utility's certificates or services; (2) whether the capital required is so minimal that it will not "materially" affect the financial condition of the utility in question; and (3) whether the rates will increase as a result of the construction.

In analyzing whether the proposed projects would materially affect MCRECC's financial condition, Commission Staff takes notice of MCRECC's 2011 Annual Report, which shows MCRECC has a net utility plant of approximately \$72,220,526. When reviewed separately, each proposed construction project based on its estimated cost would not materially impact MCRECC's existing financial condition. Therefore, each construction project is generally considered to be an extension in the ordinary course. Likewise the cost estimate of each project considered separately in the 2013-2015 CWP will not have an immediate or significant impact on MCRECC's rates. Thus, Commission Staff is of the opinion that each of the proposed projects set out in MCRECC's 2013-2015 CWP satisfy the "ordinary course of business" exemption from the CPCN requirement.

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 Helen C. Helton, General Counsel, at (502) 564-3940.

Sincerely,



Jeff Derouen  
Executive Director

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