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January 23, 2013

Mr. James L. Jacobus  
President/CEO  
Inter-County Energy Cooperative  
P.O. Box 87  
Danville, KY 40423-0087

**PSC STAFF OPINION 2013-003**

RE: Inter-County Energy Cooperative

Dear Mr. Jacobus:

Commission Staff acknowledges receipt of your letter of January 9, 2013, in which you request an opinion regarding the need for a Certificate of Public Convenience and Necessity ("CPCN") for the proposed purchase of approximately 2.5 acres of vacant commercial-zoned land that adjoins Inter-County Energy Cooperative's current property along the south border.

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.

The following facts are presented in your letter: Inter-County Energy Cooperative (Inter-County) has a potential opportunity to purchase land that adjoins Inter-County's current property along the south border. Inter-County believes this property could be "strategically important in the future expansion needs of the Cooperative, since it is currently landlocked."<sup>1</sup> Inter-County arranged a certified appraisal of the property, and states that the property has a fair market value of \$150,000. Moreover, Inter-County asserts that it plans to purchase the land from general funds, and avers it will not require the issuance of evidences of indebtedness as no funds are being borrowed to purchase the property.

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<sup>1</sup> Letter from James L. Jacobus, Inter-County Energy Cooperative, to Jeff R. Derouen, Executive Director, Public Service Commission (Jan. 9, 2013).

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Your letter presents the following issue: Must Inter-County Energy Cooperative obtain a Certificate of Public Convenience and Necessity to purchase the aforementioned real property?

KRS 278.020(1) provides, in relevant part, as follows:

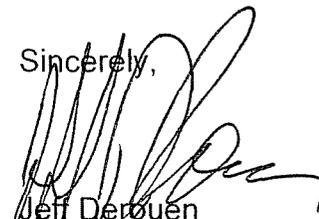
No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail 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.

Commission Staff is of the opinion that Inter-County is not required to obtain a Certificate of Public Convenience and Necessity to purchase the approximately 2.5 acres of vacant commercial-zoned land that adjoins Inter-County's current property along the south border. KRS 278.020(1) refers only to the construction of facilities, not to the purchase of real property.

Additionally, based on your representation that the land will be financed from Inter-County's general funds and no evidences of indebtedness are to be issued, Commission Staff is of the opinion that no approval is needed under KRS 278.300(1).

Questions concerning this opinion should be directed to Aaron Ann Cole, Staff Attorney, at (502) 782-2591.

Sincerely,



Jeff Derouen  
Executive Director

AAC/kar