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February 18, 2013

Mr. William T. Prather
President and CEO
Farmers Rural Electric Cooperative Corporation
P.O. Box 1298
Glasgow, KY 42124

PSC STAFF OPINION 2013-004

RE: 2013-2016 Farmers Rural Electric Cooperative Corporation's Construction Work Plan

Dear Mr. Prather:

Commission Staff acknowledges receipt of your letter dated February 1, 2013, on behalf of Farmers Rural Electric Cooperative Corporation ("Farmers RECC") in which you request an opinion as to whether any or all projects defined in Farmers RECC's 2013-2016 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 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 Farmers RECC's 2013-2016 CWP. This letter represents the 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. Therefore, because reasonableness and need are not considered herein, nor in other non-rate cases, such a project can be denied recovery in a rate case if found to be unreasonable or unnecessary.

According to its CWP, Farmers RECC proposes construction identified by RUS codes: (1) Code 100 construction for new services in the estimated cost of \$4,360,800;

(2) Code 300 line conversion and replacement with the estimated cost of \$6,032,300; (3) Code 600 for distribution equipment with the estimated cost of \$6,859,562; (4) Code 700 for security lights and AMI substation equipment with the estimated cost of \$329,769.¹ The total estimated cost of Farmers RECC's 2013-2016 CWP is \$17,582,431.

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.

¹ Farmers RECC's AMR/AMI plan was approved by the Commission in Case No. 2007-00435, Application of Farmers Rural Electric Cooperative Corporation for a Certificate of Convenience and Necessity Pursuant to KRS 278.020(1) and 807 KAR 5:001, Section 9, and Related Sections Authorizing Certain Proposed Construction Identified as the 2007-2011 Construction Work Plan (Ky. PSC Nov.16, 2007).

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In analyzing whether the proposed projects would materially affect Farmers RECC's financial condition, Commission Staff takes notice of Farmers RECC's 2012 Annual Report which shows Farmers RECC has a net utility plant of approximately \$52,167,681. When reviewed separately, each proposed construction project based on its estimated cost would not materially impact Farmers RECC's existing financial condition. Therefore, each construction project is generally considered to be an extension in the ordinary course of business. Likewise, the cost estimate of each project considered separately in the 2013-2016 CWP will not have an immediate or significant impact on Farmers RECC's rates. Thus, Commission Staff is of the opinion that each of the proposed projects set out in Farmers RECC's 2013-2016 CWP satisfy the "ordinary course of business" exemption from 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) 782-2578.

Sincerely,

Jeff Derouen
Executive Director

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