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December 6, 2013

**PSC STAFF OPINION 2013-0018**

James M. Crawford, Esquire  
Crawford & Baxter, P.S.C.  
523 Highland Avenue  
P. O. Box 353  
Carrollton, KY 41008

RE: 2014-2017 Owen Electric Cooperative, Inc.'s Construction Work Plan

Dear Mr. Crawford:

Commission Staff acknowledges receipt of your letter dated November 22, 2013 requesting a Staff advisory opinion that a Certificate of Public Convenience and Necessity ("CPCN") is not required for any part of Owen Electric Cooperative, Inc.'s ("Owen") 2014-2017 Construction Work Plan ("CWP") on the basis that all of the items in the CWP should be considered ordinary extensions of existing systems in the usual course of business. A copy of Owen's 2014-2017 CWP was attached to the letter.

This letter responds to your request. 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 reviewed the projects outlined in Owen's 2014-2017 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 exemption from the requirement of a CPCN, Commission Staff's review does not consider the reasonableness or the need for each project. Therefore, because reasonableness and need are not considered herein, nor in other non-rate cases, the cost of such a project can be denied recovery in a rate case if found to be unreasonable or unnecessary.

According to Owen's 2014-2017 CWP, Owen proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$10,095,084; (2) Code 300 line conversion and replacement at an estimated total cost of \$8,305,629; (3) Code 600 for miscellaneous distribution equipment and pole changes at an

estimated total cost of \$24,167,445; (4) Code 700 outdoor lighting, software and hardware for AMI, and SCADA/DA at an estimated total cost of \$1,587,876; and (5) Code 1500 GIS at an estimated total cost of \$1,535,000.

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 15(3) provides, in full, as follows:

Extensions in the ordinary course of business. A certificate of public convenience and necessity shall not 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 or contiguous area in which the utility renders service, 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.

In analyzing whether the proposed projects would materially affect Owen's financial condition, Commission Staff takes notice of Owen's 2012 Annual Report which shows Owen has a net utility plant of approximately \$135,358,966 as of December 13, 2012.

Initially, Commission Staff notes that one of the Code 601 projects concerns the purchase of 3,500 new prepay meters over the four-year CWP period. Commission Staff further notes that Owen has an application currently pending before the Commission requesting approval to implement a prepay metering program tariff.<sup>1</sup> As part of the proposed prepay metering program, Owen is proposing to install new prepay meters that have a disconnect device embedded within the meters for use by customers participating in the prepay program. Because the purchase of prepay meters is part of the Commission's review in Case No. 2013-00403, this Staff opinion letter will not address the prepay meters. If the Commission approves

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<sup>1</sup> Case No. 2013-00403, *Application of Owen Electric Cooperative, Inc. for Approval of a Prepay Metering Program Tariff* (Application filed Nov. 22, 2013).

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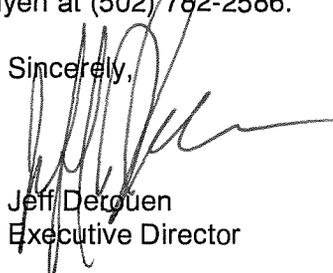
Owen's application to implement a prepay meter program, Owen's acquisition of the proposed prepay meters listed in its 2014-2017 CWP will be an ordinary extension of its existing system in the usual course of business and no CPCN will be needed for this project.

As for the remainder of the projects contained in Owen's 2014-2017 CWP, each proposed CWP project based on its estimated cost, when reviewed separately, would not materially impact Owen's existing financial condition. Therefore, each CWP 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 2014-2017 CWP will not have an immediate or significant impact on Owen's rates. Thus, Commission Staff is of the opinion that each of the proposed projects set out in Owen's 2014-2017, with the exception of the new prepay meters as noted above, satisfy the "ordinary course of business" exemption from the CPCN requirement.

Although this Staff opinion finds that Owen's 2014-2017 CWP is exempted from the CPCN requirement, for informational purposes only, Commission Staff requests that Owen provide additional information concerning the Distribution Fault Anticipator pilot project to be implemented in the first year of the CWP in coordination with NRECA and Texas A&M. The additional information should include, among other things, the scope of the project, the roles to be played by NRECA and Texas A&M, and whether the \$143,000 budget is the total budget (if so, what is Owen's share of this budget) or does that amount reflect Owen's share of the budget. Owen is requested to provide this information within 14 days from the date of this letter.

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 Quang D. Nguyen at (502) 782-2586.

Sincerely,



Jeff Detouen  
Executive Director

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