



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

Linda Breathitt
Commissioner

February 13, 2014

PSC STAFF OPINION 2014-001

Hon. J. Hadden Dean
Sheehan, Barnett, Dean, Pennington, Little & Dexter, P.S.C.
116 North Third Street
P.O. Box 1517
Danville, KY 40423-1517

RE: Inter-County Energy Cooperative Corporation 2014-2017 Construction Work Plan

Dear Mr. Dean:

Commission Staff acknowledges receipt of your letter dated January 27, 2014, on behalf of Inter-County Energy Cooperative Corporation ("Inter-County"), in which you request an opinion as to whether any or all projects contained in Inter-County's 2014-2017 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 amended projects to Inter-County's 2014-2017 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 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, or 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 its 2014-2017 CWP, Inter-County proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$6,667,020; (2) Code 300 line conversion and replacement at an estimated total cost of \$3,237,901; (3) Code 600 for miscellaneous distribution equipment and pole changes at an estimated total cost of \$13,171,597; and (4) Code 700 for security lights and a new supervisory control and data acquisition ("SCADA") system at an estimated total cost of \$1,457,900. The estimated total cost of the 2014-2017 CWP is \$24,534,418.

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 Inter-County's financial condition, Commission Staff takes notice of Inter-County's 2013 Annual Report

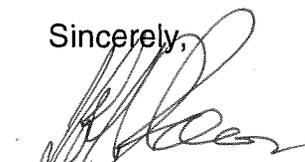
J. Hadden Dean
February 13, 2014
Page 3

which shows that Inter-County has a net utility plant of approximately \$81,588,756 as of December 13, 2012. When reviewed individually, each proposed construction project based on its estimated cost would not materially impact Inter-County'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 2014-2017 CWP will not have immediate or significant impact on Inter-County's rates. Thus, Commission Staff is of the opinion that each of the proposed projects set out in Inter-County's 2014-2017 CWP satisfy the "ordinary course of business" exemption from CPCN requirement.

Although this Staff opinion finds that Inter-County's 2014-2017 CWP is exempted from the CPCN requirement, for informational purposes only, Commission Staff requests that Inter-County provide additional information concerning the SCADA system projected to be implemented in 2017. The additional information should include, among other things, confirmation that the SCADA system being proposed is similar to the system identified in Inter-County's responses to Commission Staff's First Request for Information in Case No. 2012-00438;¹ how the proposed SCADA system will be integrated into a smart grid system; and how the proposed SCADA system will tie into and compliment Inter-County's existing AMI system and current distribution infrastructure. Inter-County is requested to provide this information concerning the new SCADA system within fourteen 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 Derouen
Executive Director

QN/kar

¹ Case No. 2012-00418, *Consideration of the Implementation of Smart Grid and Smart Meter Technologies*.