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November 14, 2014

PSC STAFF OPINION 2014-016

Mrs. Carol Ann Fraley
President and CEO
Grayson Rural Electric Cooperative Corporation
109 Bagby Park
Grayson, KY 41143

RE: Grayson Rural Electric Cooperative Corporation 2015-2018 Construction Work Plan

Dear Mrs. Fraley:

Commission Staff acknowledges receipt of your letter dated October 27, 2014, and received by the Commission on October 29, 2014, on behalf of Grayson Rural Electric Cooperative Corporation ("Grayson"), in which you request a Staff Opinion on Grayson's 2015-2018 Construction Work Plan. Although the letter did not specifically set forth the purpose of the request, Commission Staff will consider this a request as to whether any or all projects contained in Grayson's 2015-2018 Construction Work Plan ("CWP") will 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 contained in Grayson's 2015-2018 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 requirements 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 the 2015-2018 CWP and based upon the summary of the construction projects, Grayson proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$3,261,906; (2) Code 300 line conversion and replacement at an estimated total cost of \$2,853,380; (3) Code 600 for miscellaneous distribution equipment and pole changes at an estimated total cost of \$13,225,105; (4) Code 701 security lights at an estimated total cost of \$563,880; and (5) Code 1501 geographic information systems at an estimated total cost of \$800,930.

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 Grayson's financial condition, Commission Staff takes notice of Grayson's 2013 Annual Report, which shows Grayson has a net utility plant of approximately \$51,474,078 as of December 13, 2013. With the exception of the Meter Replacements project (identified in the CWP as Code 601 at an estimated cost of \$1,988,382), each proposed construction project when reviewed individually based on its estimated cost would not materially impact Grayson's existing financial condition. Therefore, each construction project, except for the Meter Replacements 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 2015-2018 CWP, with the exception of the Meter Replacements project, will not have immediate or significant impact on Grayson's rates. Lastly, except for the Meter Replacement project, the individual construction projects would not result in wasteful duplication of facilities or conflict with the service of other utilities. Thus, Commission Staff is of the opinion that each of the proposed projects set out in Grayson's 2015-2018 CWP satisfy the "ordinary course of business" exemption from CPCN requirement with the exception of the Meter Replacements project.

Based on the information provided in the CWP, Commission Staff is unable to conclude whether the project designated as Meter Replacements satisfies the "ordinary course of business" exemption. In Section 2.2, page 2-3, the CWP states that "[Grayson] will need to replace approximately 12,408 of their existing AMI meters during the 2015-2018 CWP period, because the manufacturer has discontinued the production and support of this model." This statement could be interpreted to mean that Grayson is replacing a significant amount of its existing AMI meters. If so, consistent with Staff's position when developing the new CWP review process, Grayson would be required to obtain a CPCN prior to engaging in this project. If this was not Grayson's intent, Grayson will need to clarify its intention and provide additional information supporting Grayson's proposal to replace 12,408 existing AMI meters, including, but not limited to, the manufacturer, type, and model of meter, the total amount of existing meters Grayson has in inventory, the reason why the manufacturer has discontinued production and support of these AMI meters, and when was such information made known to Grayson. In addition, provide how the cost information was derived for the Average Cost/Meter Replacement for each year of the 2015-2018 CWP period, including the derivation of the \$149 average cost for 2012-2013, as reflected in Section 2.2 of the CWP, at page 2-4.

Although Commission Staff is of the opinion that all of the projects contained in the CWP, with the exception of the Meter Replacements project, are not subject to the CPCN requirement, Commission Staff would like clarification on the information provided in Table 1-3 of the CWP. According to the CWP, Table 1-3 reflects historical and projected annual energy, demand, and consumer data based on the 2012 Load

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Forecast performed by East Kentucky Power Cooperative, Inc. for Grayson. Table 1-3 shows Grayson's winter non-coincident peak demand for 2011, 2012, 2013 and 2014 as being 70 MW, 60 MW, 63.3 MW, and 81.7 MW, respectively. Is the source of this data entirely from the 2012 Load Forecast? Or, is the peak demand data as presented in Table 1-3 a combination of the 2012 Load Forecast that has been adjusted to account for the actual winter peak that occurred during January 2014?

Within seven days from the date of this letter, Grayson shall submit either:

- 1) Written confirmation that the intent of the Meter Replacement project is to replace a significant amount of its existing AMI meters and that Grayson will file an application requesting a CPCN for that project; or
- 2) Clarification of what it intends to do with respect to the Meter Replacement project and provide the supporting information as previously mentioned in this letter.

The clarification concerning the peak demand data as contained in Table 1-3 should also be provided within seven days from the date of this letter. As a reminder, before the Meter Replacement project can be implemented, a CPCN must be granted or a staff opinion issued determining the project an "ordinary course of business" exemption.

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/ch