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Mary Pat Regan
Commissioner

Andrew W. Wood
Commissioner

April 28, 2026

Staff Opinion 2026-003

Sent electronically to Heather@hloky.com

Honaker Law Office
Heather Temple
1795 Alysheba Way
Ste. 1203
Lexington, KY 40509

Dear Ms. Temple:

Commission Staff acknowledges receipt on April 9, 2026, of your letter in which you request an opinion on behalf of Licking Valley Rural Electric Cooperative Corporation (Licking Valley RECC) regarding an opinion as to whether any or all projects contained in Licking Valley RECC's 2026-2029 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 of KRS 278.020(1)(a)2 and 807 KAR 5:001, Section 15(3), 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 reviewed the projects contained in Licking Valley RECC's 2026-2029 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.

For purposes of this review of the 2026-2029 CWP, the CWP for 2019-2022 was reviewed and one carryover project was included from that previous plan.¹ According to its 2026-2029 CWP, Licking Valley RECC's proposes construction identified by the following RUS Codes: 1) New Lines - RUS Code 100 at a projected cost of \$4,212,573; 2)

¹ 2026-2029 CWP at 2.2. The 2026-2029 CWP does not mention a CWP for 2023-2025, nor was a CWP for 2023-2025 located in Commission records. Licking Valley RECC has provided no basis or reason for this gap in CWP.

Conversion/Line Changes – RUS Code 300 at a projected costs of \$5,882,232; 3) Miscellaneous Distribution Equipment - RUS Code 600 at a projected cost of \$18,263,655; and 4) Other Distribution Items - RUS Code 700 at a projected cost of \$675,150. The total estimated cost of all projects contained in Licking Valley RECC's CWP is \$29,033,610.²

To analyze this request, the Commission Staff has referenced relevant statutory and regulatory law as well as pertinent Commission Orders. KRS 278.020, among other provisions, establish the requirements and exceptions regarding when a utility is required to obtain a CPCN prior to construction that exceeds that of the ordinary course of business. 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.

In addition to KRS 278.020, exceptions to the CPCN requirement were further clarified by regulation. 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 Licking Valley RECC's financial condition, Commission Staff takes notice of Licking Valley RECC's 2025 Annual Report, which shows Licking Valley RECC having net utility plant of approximately \$54,878,096.00 as of December 31, 2024. When reviewed individually, each of those proposed construction projects based on its estimated cost would not materially impact Licking Valley RECC's existing financial condition. Therefore, each construction project is generally considered an extension in the ordinary course of business. Likewise, the cost estimate of each project considered separately in the 2026-2029 CWP will not have

² 2026-2029 CWP Program Cost Summary, Table 1.2.

Heather Temple

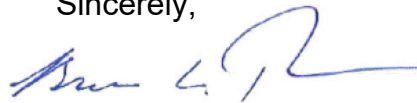
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an immediate or significant impact on Licking Valley RECC's rates. Lastly, the individual construction projects would not result in wasteful duplication of facilities or conflict with the service of other utilities. Thus, Commission Staff is of the opinion that each of the proposed projects set out in Licking Valley RECC's 2026-2029 CWP satisfy the "ordinary course of business" exemption from CPCN requirement. Accordingly, Commission Staff is of the opinion that the individual projects in Licking Valley RECC's 2026-2029 CWP do not require a CPCN.

This letter represents Commission Staff's interpretation of the law as applied to the facts as presented. The 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 at Brian C. Thomas at (502) 782-2582.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian C. Thomas", with a stylized flourish at the end.

Brian C. Thomas
General Counsel

April 9, 2026

Via Electronic Filing System

Ms. Linda C. Bridwell, P.E.
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

RE: Licking Valley Rural Electric Cooperative Corporation
Request for Staff Opinion
2026 – 2029 Construction Work Plan

Dear Ms. Bridwell:

This letter is a request by Licking Valley Rural Electric Cooperative Corporation (“Licking Valley”) for a Kentucky Public Service Commission (“Commission”) Staff Opinion that pursuant to KRS 278.020(1) and 807 KAR 5:001, Section 15(3) Licking Valley’s 2026-2029 Construction Work Plan (“CWP”), provided herein, does not require the issuance of a Certificate of Public Convenience and Necessity (“CPCN”) by the Commission. Licking Valley is requesting this Staff Opinion based on the process for reviewing CWP’s by the Commission implemented in 2012. Additionally, Licking Valley requests the Staff Opinion by **May 1, 2026**.

It is Licking Valley’s belief the projects contained in its CWP meet the exemptions outlined in KRS 278.020(1) and 807 KAR 5:001, Section 15(3) as ordinary course of business and should not require a CPCN. On a project-by-project basis, the items contained in the CWP do not create wasteful duplication of plant. Accordingly, this CWP should not require a CPCN. Licking Valley would respectfully request that the Commission Staff issue a Staff Opinion to that effect.

Please do not hesitate to contact me if there are any questions or additional information is required.

Sincerely,

Heather S. Temple

Heather S. Temple

Enc.