

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CLARK ENERGY COOPERATIVE, INC.	)	
_____	)	CASE NO.
	)	2012-00219
ALLEGED FAILURE TO COMPLY WITH	)	
ADMINISTRATIVE REGULATIONS	)	

O R D E R

On February 28, 2012, the Commission accepted for filing an application from Clark Energy Cooperative, Inc. ("Clark Energy") seeking approval for a Certificate of Public Convenience and Necessity ("CPCN") to construct certain improvements and additions to its existing plant.<sup>1</sup> In support of its application, Clark Energy filed its 2010-2014 Construction Work Plan ("CWP"). Clark Energy's CWP contains proposed improvements and additions to its plant that are required over the four-year period in order for Clark Energy to serve its load.

During the discovery phase in Case No. 2011-00303, Clark Energy revealed that it had begun construction on four projects contained in its 2010-2014 CWP prior to obtaining the requisite CPCN.

KRS 278.020 provides, in relevant part, that:

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,

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<sup>1</sup> Case No. 2011-00303, Application of Clark Energy Cooperative, Inc. for a Certificate of Convenience and Necessity to Construct According to its 2010-2014 Construction Work Plan (Ky. PSC Feb. 28, 2012).

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.

Because Clark Energy has apparently failed to obtain a CPCN before beginning the construction described in its 2010–2014 CWP, the Commission finds it necessary to investigate this matter further. The Commission finds that a prima facie case has been made that Clark Energy violated KRS 278.020(1) by beginning construction without first obtaining a CPCN. Therefore, the Commission establishes this investigation into Clark Energy's apparent failure to comply with KRS 278.020 in order to determine whether it is appropriate to assess a civil penalty pursuant to KRS 278.990 for Clark Energy's apparent violation of KRS 278.020.

The Commission, on its own motion, HEREBY ORDERS that:

1. Clark Energy shall submit to the Commission, within 20 days of the date of this Order, a written response to the allegations contained in this Order.
2. Clark Energy shall appear on August 8, 2012 at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard in Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violations of KRS 278.020 and to show cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for this alleged violation.
3. At the scheduled hearing in this matter, Clark Energy shall be prepared to present evidence on the adequacy and reasonableness of its practices related to

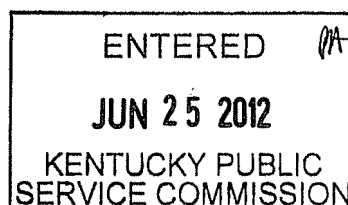
ensuring that CPCN filings are timely and properly made and whether such practices require revision.

4. The August 8, 2012 hearing shall be recorded by videotape only.

5. Any request for an informal conference with Commission Staff shall be set forth in writing and filed with the Commission within 20 days of the date of this Order.

6. The record of Case No. 2011-00303 shall be incorporated herein by reference.

By the Commission



ATTEST:

*Stephanie Bell for Jeff Deen*  
Executive Director

Case No. 2012-00219

Paul G Embs  
President & CEO  
Clark Energy Cooperative, Inc.  
2640 Ironworks Road  
P. O. Box 748  
Winchester, KY 40392-0748