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October 17, 2011

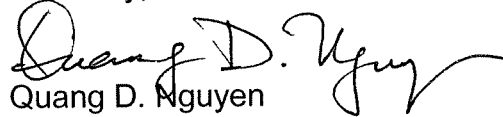
Mr. Jeff Derouen  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

Re: Owen Electric Cooperative, Inc.  
Case No. 2011-00160

Dear Mr. Derouen:

Attached hereto is the Stipulation of Facts and Settlement Agreement entered into by Owen Electric Cooperative, Inc. and Staff. Please bring this document to the Commission's attention for its review and consideration.

Sincerely,

  
Quang D. Nguyen  
Staff Attorney

QDN/kar  
Attachment

cc: James M. Crawford, Esquire

## STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated June 21, 2011, the Commission initiated this proceeding to determine whether Owen Electric Cooperative, Inc. ("Owen") should be subject to the penalties prescribed in KRS 278.990 for allegedly violating KRS 278.020 and the Commission's August 5, 2009 Order in Case No. 2009-00010<sup>1</sup> by beginning construction on some of the projects contained in its 2010–2011 Construction Work Plan ("CWP") without first obtaining a Certificate of Public Convenience and Necessity ("CPCN").

On July 7, 2011, Owen filed a response to the Commission's June 21, 2011 Order. Owen acknowledged that "it did not file for the CPCN before any work began on the Construction Work Plan." Owen, however, maintained that its "lack of filing was not willful in nature nor was it an intentional disregard of KRS 278.020 or the Commission's Order of August 5, 2009."

Also included in Owen's response was a request for an informal conference with Commission Staff to discuss the issues related to this matter. An informal conference was subsequently held at the Commission's offices on August 1, 2011. Discussions during the informal conference between Owen and Commission Staff resulted in the following Stipulation of Facts and Settlement Agreement ("Stipulation"), which is submitted for the Commission's consideration in rendering its decision:

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<sup>1</sup> Application of Owen Electric Cooperative, Inc. for an Order Pursuant to KRS 278.300 and 807 KAR 5:001, Section 11, and Related Sections, Authorizing the Cooperative to Obtain a Loan Under the RUS/CoBank Co-Lending Program not to Exceed \$28,083,000 at any One Time from Rural Utilities Service and CoBank (Ky. PSC, Aug. 5, 2009).

1. Owen acknowledges that a CPCN should have been obtained, but was not, before beginning construction of any of the projects contained in its 2010–2011 CWP.

2. Owen agrees to develop internal procedures to ensure that future construction work plans will be filed with the Commission in a timely manner. These procedures will include the establishment of a detailed check list for preparing and seeking approval of construction work plans, written procedures detailing division responsibilities to be included in Owen's employee manual, the creation of job descriptions for those personnel involved in the construction work plan process, and the restructuring of the responsibility for regulatory affairs under the finance department.

3. Owen agrees to pay the amount of \$3,000 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's June 21, 2011 Order as to whether Owen should be assessed penalties under KRS 278.990 for willful violations of KRS 278.020 and the Commission's Order of August 5, 2009 in Case No. 2009-00010. The Commission's acceptance of this Stipulation shall not be construed as a finding of a willful violation of any Commission statute or order.

4. In the event that the Commission does not accept this Stipulation in its entirety, Owen and Commission Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties thereto, used as an admission by Owen of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the June 21, 2011 Order, or otherwise used as an admission by either party.

5. This Stipulation is for use only in Commission Case No. 2011-00160, and neither party hereto shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceeding by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of Owen's service, and Owen shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Owen and Commission Staff agree that the foregoing Stipulation is reasonable for the purpose of resolving all issues in Commission Case No. 2011-00160, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, Owen agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

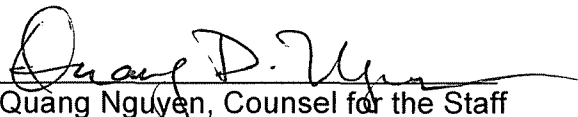
IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this 14th day of October, 2011.

**Owen Electric Cooperative, Inc.**

By 

Title President & CEO

**Staff of the Kentucky Public Service Commission**

By   
Quang Nguyen, Counsel for the Staff