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March 25, 2015

PSC STAFF OPINION 2015-008

Michelle Herrman
Vice President, Finance & Accounting
South Kentucky Rural Electric Cooperative Corporation
925-929 North Main Street
P.O. Box 910
Somerset, KY 42502-0910

Re: South Kentucky Rural Electric Cooperative Corporation's 2015-2018
Construction Work Plan

Dear Ms. Herrman:

Commission Staff acknowledges receipt of your letter dated March 9, 2015, on behalf of South Kentucky Rural Electric Cooperative Corporation ("South Kentucky"), in which you request an opinion as to whether any or all projects contained in South Kentucky's 2015-2018 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 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 South Kentucky'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 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 2015-2018 CWP, South Kentucky proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$15,203,267; (2) Code 300 line conversion and replacement at

an estimated total cost of \$1,462,250; (3) Code 600 for miscellaneous distribution equipment and pole changes at an estimated total cost of \$15,278,890; (4) Code 701 security lights at an estimated total cost of \$8,019,700; and (5) Code 702 for additional SCADA equipment to control voltage regulators at an estimated total cost of \$50,000.

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 South Kentucky's financial condition, Commission Staff takes notice of South Kentucky's 2013 Annual Report, which shows South Kentucky has a net utility plant of approximately \$167,884,348 as of December 31, 2013. With the exception of the Code 300 projects and the Code 701 security lights project, each proposed construction project when reviewed individually based on its estimated cost would not materially impact South Kentucky's existing financial condition. Therefore, each construction project, except for the Code 300 and Code 701 projects, 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 Code 300 and Code 701 projects, will not have an immediate or significant impact on South Kentucky's rates.

Lastly, except for the Code 300 and Code 701 projects, 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 South Kentucky's 2015-2018 CWP satisfy the "ordinary course of business" exemption from CPCN requirement with the exception of the Code 300 and Code 701 projects.

Based on the information provided in the CWP, Commission Staff is unable to form an opinion as to whether the Code 300 and Code 701 projects satisfy the "ordinary course of business" exemption. With respect to the Code 300 projects, for each of the conductor replacement items listed on page 16 of the CWP, provide a description of the proposed construction, a reason for the proposed construction, the results of the proposed construction, and the alternative corrective plans investigated. As to the Code 701 security lighting project, provide an explanation as to why South Kentucky proposes to transition to LED for security lights and flood lights and any analysis that South Kentucky conducted that would support South Kentucky decision to switch to LED lighting.

Lastly, for informational purposes only, Commission Staff requests that South Kentucky provide additional information on the steps that South Kentucky has taken, or intends to take, to address the recommendations listed on page 11 of the CWP, i.e., the need to remove telephone poles left standing next to electric poles; ensuring that cable TV attachments are in contractual compliance; more aggressive vegetation management with respect to problem trees; and reporting of idle services to be reconciled with billing records and adjusted accordingly.

The information concerning the Code 300 and Code 701 projects and the recommended improvements should be provided within seven days from the date of this letter. As a reminder, before any construction can begin on the Code 300 and Code 701 projects, 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/ph