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February 22, 2016

PSC STAFF OPINION 2016-004

Hon. Mark David Goss
Goss Samford, PLLC
2365 Harrodsburg Rd.
Suite B-325
Lexington, KY 40504

Re: Jackson Purchase Energy Corporation's 2016-2019 Construction Work Plan

Dear Mr. Goss:

Commission Staff acknowledges receipt of your letter dated February 5, 2016, on behalf of Jackson Purchase Energy Corporation ("Jackson Purchase"), in which you request an opinion as to whether any or all projects contained in Jackson Purchase's 2016-2019 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 Jackson Purchase's 2016-2019 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 2016-2019 CWP, Jackson Purchase proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$4,330,047; (2) Code 300 line conversion and replacement at an estimated total cost of \$2,587,960; (3) Code 500 for substation upgrades, switching

stations, and metering point changes at an estimated total cost of \$9,736,000; Code 600 for miscellaneous distribution equipment and pole changes at an estimated total cost of \$15,169,508; (4) Code 702 outdoor lighting at an estimated total cost of \$3,514,962; and (5) Code 704 AMI hardware and software at an estimated total cost of \$60,000.

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 Jackson Purchase's financial condition, Commission Staff takes notice of Jackson Purchase's 2014 Annual Report, which shows Jackson Purchase has a net utility plant of approximately \$94,822,086 as of December 31, 2014. With the exception of the Code 600 projects, each proposed construction project when reviewed individually based on its estimated cost would not materially impact Jackson Purchase's existing financial condition. Therefore, each construction project, except for the Code 600 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 2016-2019 CWP, with the exception of the Code 600 projects, will not have an immediate or significant impact on Jackson Purchase's rates.

Lastly, except for the Code 600 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 Jackson Purchase's 2016-2019 CWP satisfy the "ordinary course of business" exemption from CPCN requirement with the exception of the Code 600 projects.

Based on the information provided in the CWP, Commission Staff is unable to form an opinion as to whether the Code 600 projects satisfy the "ordinary course of business" exemption. Although page 22 of the CWP contained historical data for several Code 600 projects, the CWP fails to include any details regarding those planned projects which fall within the 600 Code. Accordingly, please provide a brief detailed explanation for each the Code 600 projects.

Lastly, Commission Staff notes that the historical data provided on page 22 of the CWP for Section 1 of Code 606 Pole Changes and Code 702 Outdoor Lights have the same numerical value. For informational purposes only, confirm whether the historical data for Code 606 Pole Changes and Code 702 Outdoor Lights are accurate. If they are not accurate, provide the corrected data. Commission Staff also notes that using the information provided on page 67 of the CWP which discusses Code 702 Outdoor Lights, the calculated projected cost for replacing an existing outdoor light is \$858; whereas, the calculated projected cost for a new outdoor light is \$1,023. Provide an explanation as to why the unit cost for a new outdoor light is higher than the unit cost for replacing an existing outdoor light.

The information concerning the Code 600 projects, the historical cost data for pole changes and outdoor lights, and the per unit costs for new outdoor lights versus replacement lights should be provided within seven days from the date of this letter. As a reminder, before any construction can begin on the Code 600 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,



Richard G. Raff
General Counsel

QN/PH