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March 31, 2016

PSC STAFF OPINION 2016-008

Greg Harrington
Vice President, Engineering
Blue Grass Energy
1201 Lexington Rd.
P.O. Box 990
Nicholasville, KY 40340-0990

Re: Blue Grass Energy 2016-2018 Construction Work Plan

Dear Mr. Harrington:

Commission Staff acknowledges receipt of your letter dated March 7, 2016, on behalf of Blue Grass Energy ("Blue Grass Energy"), in which you request an opinion as to whether any or all projects contained in Blue Grass Energy's 2016-2018 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 in Blue Grass Energy's 2014-2018 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 2016-2018 CWP, Blue Grass Energy proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$11,678,000; (2) Code 300 line conversion and replacement an estimated total cost of \$14,445,200; (3) Code 600 for miscellaneous distribution equipment at an estimated total cost of \$14,811,118; (4) Code 701 security lights at an estimated total cost of \$971,500; and (5) Code 704 for the installation of a distribution automation communication backbone and Volt/VAR system at an estimated total cost of \$2,355,000.

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 Blue Grass Energy's financial condition, Commission Staff takes notice of Blue Grass Energy's 2014 Annual Report which showed that Blue Grass Energy had net utility plant of approximately \$155,597,146 as of December 31, 2014. When reviewed individually, each proposed construction project based on its estimated cost would not materially

impact Blue Grass Energy's existing financial condition. Therefore, each construction project is generally considered to be an extension in the ordinary course of business. Likewise, the cost estimate of each project considered separately in the 2016-2018 CWP will not have immediate or significant impact on Blue Grass Energy'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 Blue Grass Energy's 2016-2018 CWP satisfies the "ordinary course of business" exemption from CPCN requirement.

Although Commission Staff is of the opinion that none of the projects contained in the CWP is subject to the CPCN requirement, Commission Staff would like clarification on certain items contained in the CWP.

Refer to Page 10, Item C.1. of the 2016-2018 CWP which states that the 2002 EKPC Load Forecast was the basis for Blue Grass Energy's 2004 Long Range Plan. While stating that load growth changes since then warrant an update to the Long Range Plan, this section also states that the 2004 Long Range Plan is still valid for the current CWP period. The 2014 Load Forecast projected a peak demand of 452 MW occurring in the 2018-2019 winter while the 2002 Load Forecast projected a peak demand of 501 MW by 2014.

(1) Confirm that the projects in the 2016-2018 CWP are needed within that timeframe based on the reduced load reflected in the 2014 Load Forecast.

(2) Explain how frequently a new long-range plan is typically developed and when the update to the current long range plan is expected to be completed.

(3) Provide a copy of BGE's 2004 Long Range Plan. If it is a voluminous document, it may be provided electronically or on a CD.

Refer to Page 10, Item C.2. of the 2016-2018 CWP. Provide a brief description of how Blue Grass energy is addressing each of the three improvements recommended by the Rural Utilities Service in its response to the 2015 Form 300 submitted by Blue Grass Energy.

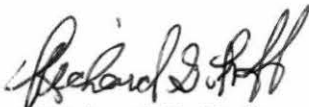
Refer to Page 67, 601 Transformers and Meters. Explain Blue Grass Energy's plans for replacing consumer meters that have reached the end-of-life period "in lieu of testing" and how this policy does not conflict with 807 KAR 5:041, Section 15, which require tests for accuracy of metering equipment to be performed "prior to being placed in service, periodically...., upon complaint, when suspected of being in error, or when removed from service." (Emphasis added).

Lastly, provide additional details on the distribution automation and Volt/VAR system project. Describe the specific technologies employed and how these system improvements will support future adoption of Advanced Metering Infrastructure.

The information requested herein should be provided within seven days from the date of this letter.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and is 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