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Daniel E. Logsdon Jr.
Vice Chairman

April 18, 2016

PSC STAFF OPINION 2016-009

Mr. Ted Hampton
Manager, CEO
Cumberland Valley Electric
P.O. Box 440
Gray, KY 40734

RE: Cumberland Valley Electric's 2016-2019 Construction Work Plan

Dear Mr. Hampton:

Commission Staff acknowledges receipt of your letter dated March 18, 2016, on behalf of Cumberland Valley Electric ("Cumberland Valley"), in which you request an opinion as to whether any or all projects contained in Cumberland Valley'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 Cumberland Valley'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, Cumberland Valley proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$5,634,220; (2) Code 300 line conversion and replacement at an

estimated total cost of \$580,700; (3) Code 600 for miscellaneous distribution equipment and pole changes at an estimated total cost of \$10,017,749; and (4) Code 700 outdoor lighting at an estimated total cost of \$1,656,790.

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 Cumberland Valley's financial condition, Commission Staff takes notice of Cumberland Valley's 2014 Annual Report, which shows Cumberland Valley has a net utility plant of approximately \$63,658,915 as of December 31, 2014. With the exception of the Code 601 project involving replacement meters, each proposed construction project when reviewed individually based on its estimated cost would not materially impact Cumberland Valley's existing financial condition. Therefore, each construction project, except for the Code 601 replacement meter 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 2016-2019 CWP, with the exception of the Code 601 replacement meter project, will not have an immediate or significant impact on Cumberland Valley's rates. Lastly, except for the Code 601 replacement meter project, the individual

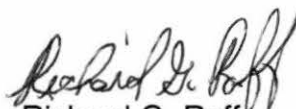
construction projects would not result in wasteful duplication of facilities or conflict with the service of other utilities. Thus, Commission Staff is of the opinion that each of the proposed projects set out in Cumberland Valley's 2016-2019 CWP satisfy the "ordinary course of business" exemption from CPCN requirement with the exception of the Code 601 replacement meter project.

Based on the information provided in the CWP, Commission Staff is unable to form an opinion as to whether the Code 601 replacement meter project satisfies the "ordinary course of business" exemption. Commission Staff notes that there appears to be conflicting information with respect to the Code 601 project involving replacement meters. Exhibit B, page 2 of 3, and Exhibit E, page 2 of 3, show that 13,226 replacement meters would be purchased at an estimated total cost of \$3,237,513. However, RUS Form 740c, page 2 of 5, along with the attached environmental report indicate that 10,656 replacement meters would be purchased at an estimated total cost of \$3,665,099. Commission Staff requests that Cumberland Valley reconcile the conflicting information provided with respect to the number of replacement meters and the estimated total cost of those replacement meters. In addition, Commission Staff requests that Cumberland Valley provide a detailed explanation as to why Cumberland Valley is proposing to replace this amount of meters and if the replacements will remove all electro-mechanical residential meters from the Cumberland Valley system.

Cumberland Valley is requested to provide the information relating to the Code 601 replacement meter project within 14 days from the date of this letter. As a reminder, before the Code 601 replacement meter project can be implemented, a CPCN must be granted or a Staff opinion issued determining that the project falls within the "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