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May 25, 2017

Mr. Albert P. Marks  
Dunbar Park  
233-A Dunbar Cave Road  
Clarksville, TN 37043

**PSC STAFF OPINION 2017-009**

Re: Cumberland Electric Membership Corporation  
Clarksville, Tennessee

Dear Mr. Marks:

Commission Staff acknowledges receipt of your letter of April 18, 2017, in which you request an opinion regarding the jurisdiction of the Kentucky Public Service Commission to regulate Cumberland Electric Membership Corporation ("CEMC") in connection with CEMC prepaying certain notes in its existing loans and obtaining a new Rural Utility Service loan. This opinion represents Commission Staff's interpretation of the law as applied to the facts presented, is advisory in nature, and is not binding on the Commission should the issues herein be formally presented for Commission resolution.

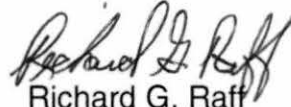
For those utilities subject to our jurisdiction, KRS 278.020 prohibits the construction of utility facilities without the Commission's issuance of a Certificate of Public Convenience and Necessity, and KRS 278.300 prohibits the issuance of any evidence of indebtedness by a utility without prior Commission approval.

According to the letter, you advised that CEMC is an electric cooperative whose exclusive source of electricity is the Tennessee Valley Authority ("TVA"). The Commission is preempted on rate regulation by the TVA, a federal agency, pursuant to the District Court for the Western District of Kentucky's ruling in TVA, et al. v. Energy Regulatory Commission, Civil Action No. 79-0009-P (W.D. Ky. Sept. 27, 1979). The Commission subsequently concluded that TVA's service requirements similarly preempt those of Kentucky, leaving no aspect of a TVA distribution cooperative's operations subject to our jurisdiction. Accordingly, CEMC is not required to obtain a Certificate of Public Convenience and Necessity from the Kentucky Public Service Commission in connection with the issuance of indebtedness.

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Questions concerning this opinion should be directed to Jennifer L. Fell at 502  
782-2585.

Sincerely,

  
Richard G. Raff  
General Counsel

JLF/ph