



Matthew G. Bevin
Governor

Charles G. Snavelly
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Michael J. Schmitt
Chairman

Robert Cicero
Vice Chairman

Talina R. Mathews
Commissioner

May 3, 2018

PSC STAFF OPINION 2018-006

Hon. Thomas C. Brite
Brite & Hopkins, PLLC.
107 South Main Street
P.O. Box 309
Hardinsburg, KY 40143-0309

RE: Meade County Rural Electric Cooperative Corporation's 2018-2020 Construction Work Plan

Dear Mr. Brite:

Commission Staff acknowledges receipt of your letter received on March 6, 2018, on behalf of Meade County Rural Electric Cooperative Corporation ("Meade RECC"), in which you request an opinion as to whether any or all projects contained in Meade RECC's 2018-2020 Construction Work Plan ("CWP") require a Certificate of Public Convenience and Necessity ("CPCN") or whether the individual 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 reviewed the projects contained in Meade RECC's 2018-2020 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 2018-2020 CWP, Meade RECC proposes individual construction projects grouped according to the following RUS Codes: (1) Code 100 construction for

new services at an estimated total cost of \$3,574,072; (2) Code 300 for line conversion and replacement at an estimated total cost of \$608,142; (3) Code 400 for two new substations at an estimated total cost of \$2,220,500;¹ (4) Code 500 for substation improvements at an estimated total cost of \$435,000; (5) Code 600 for miscellaneous distribution equipment (i.e., transformers, meters, sectionalizing, conductors, and pole replacements) at an estimated total cost of \$8,328,372; and (6) Code 700 for outdoor lighting and automation at an estimated total cost of \$2,322,304.

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 each individual project contained in Meade RECC's 2018-2020 CWP would materially affect the company's financial condition, Commission Staff takes notice of Meade RECC's 2016 Annual Report, which shows that Meade RECC has a net utility plant of approximately \$82,746,663 as of December 31, 2016. With the

¹ According to the Meade RECC 2018-2020 CWP, the two new substations will not be funded by Rural Utilities Service.

exception of the Code 601 AMI Pilot Meters and the Code 705 AMI Hardware and Software projects, each proposed construction project when viewed individually based on its estimated cost would not materially impact Meade RECC's existing financial condition. Therefore, each construction project, except for the Code 601 AMI Pilot Meters and the Code 705 AMI Hardware and Software 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 2018-2020 CWP, with the exception of the Code 601 AMI Pilot Meters and the Code 705 AMI Hardware and Software projects, will not have an immediate or significant impact on Meade RECC's rates. Lastly, except for the Code 601 AMI Pilot Meters and the Code 705 AMI Hardware and Software 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 Meade RECC's 2018-2020 CWP satisfy the "ordinary course of business" exemption from CPCN requirement, with the exception of the Code 601 AMI Pilot Meters and Code 705 AMI Hardware and Software projects.

Based on the information provided in the CWP, Commission Staff is unable to provide an opinion as to whether the Code 601 AMI Pilot Meters and Code 705 AMI Hardware and Software projects (collectively "AMI Pilot Project") satisfy the "ordinary course of business" exemption. Although Section IV-F of the CWP, page 1, indicates that Meade RECC's current Landis + Gyr Power Line Carrier AMI system is nearing the end of its useful and will be fully depreciated by 2020, no information is provided detailing how Meade RECC selected 5,200 meters to be used in the AMI Pilot Project; whether 5,200 meters is a reasonable number of meters to be used in the AMI Pilot Project; whether Meade RECC anticipates using one or more meter vendors; whether Meade has selected the vendor(s); how Meade RECC selected the vendor(s); how long the AMI Pilot Project will last, the criteria for determining whether the pilot is successful, and how much, if any, of the cost of the AMI Pilot Project will be salvageable if the pilot is unsuccessful. Accordingly, provide a detailed explanation of the AMI Pilot Project addressing each item of information mentioned above and provide a copy of any existing written description of the AMI Pilot Project.

Lastly, Commission Staff notes that the CWP indicates that two new substations will be constructed during the CWP period, one in 2019 and the other in 2020. The CWP also indicates that these two new substations will not be funded through the Rural Utilities Service loan program. Provide an explanation as to how the two new substations will be funded.

The information concerning the AMI Pilot Project and the two new substations should be provided within seven days from the date of this letter. As a reminder, before any construction can begin on the AMI Pilot Project and the two new substations, Meade RECC should consider filing an application requesting a CPCN or await a staff opinion determining those projects fall 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,



Gwen R. Pinson
Executive Director

QN/ch