



Matthew G. Bevin
Governor

Charles G. Snaveley
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

December 2, 2019

PSC STAFF OPINION 2019-016

Gregory Grissom
Jackson Purchase Energy Corporation
P.O. Box 4030
2900 Irving Cobb Drive
Paducah, Kentucky 42002-4030

Re: Jackson Purchase Energy Corporation 2020-2023 Construction Work Plan

Dear Mr. Grissom:

Commission Staff acknowledges receipt on November 4, 2019 of your letter on behalf of Jackson Purchase Energy Corporation (Jackson Purchase Energy) requesting a staff advisory opinion. Specifically, the letter requests an opinion as to whether any or all projects contained in Jackson Purchase Energy's 2020-2023 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 reviewed the projects contained in Jackson Purchase Energy's 2020-2023 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 2020-2023 CWP, Jackson Purchase Energy proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$5,671,698; (2) Code 200 new tie lines at an estimated total cost of \$1,020,000; (3) Code 300 conversion and line changes at an estimated total cost of \$1,274,550; (4) Code 500 substation improvements and upgrades at an estimated total cost of \$7,254,000;¹ (5) Code 600 miscellaneous distribution equipment at an estimated total cost of \$16,356,940;² and (6) Code 700 other distribution items (outdoor lighting and AMI software and hardware) at an estimated cost of \$569,345. The 2020-2023 CWP also includes a Code 1300 project involving the construction of a new headquarters facilities at an estimated cost of \$19,192,000. Jackson Purchase Energy indicates that the new headquarters facilities is the subject of an application for a CPCN docketed as Case No. 2019-00326.

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

¹ The three major substation upgrades were carryovers from the prior construction work plan.

² The estimated cost of each individual Code 600 projects over the four-year CWP period are as follows:

- Code 601 – New Transformers/Meters\$2,434,484
- Code 602 – Service Upgraded\$120,932
- Code 603 – Sectionalizing\$405,812
- Code 604 – Voltage Regulators\$188,263
- Code 606 – Pole Replacement\$7,269,641
- Code 608 – Conductor Replacement.....\$1,882,632
- Code 616 – Communications Fiber.....\$1,545,000
- Code 607 – Miscellaneous\$2,510,176

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 Energy's financial condition, Commission Staff takes notice of Jackson Purchase Energy's 2018 Annual Report, which shows Jackson Purchase Energy having total utility plant of approximately \$95,522,198 as of December 31, 2018. When reviewed individually, each proposed construction project based on its estimated cost would not materially impact Jackson Purchase 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 2020-2023 CWP will not have an immediate or significant impact on Jackson Purchase 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 Jackson Purchase Energy's 2020-2023 CWP satisfy the "ordinary course of business" exemption from CPCN requirement.

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,

A handwritten signature in blue ink, appearing to read "J.E.B. Pinney", with a large, stylized flourish to the right.

J.E.B. Pinney
Acting General Counsel

QN/kg