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January 24, 2020

PSC STAFF OPINION 2020-002

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

Re: Cumberland Valley Electric's 2020-2023 Construction Work Plan

Dear Mr. Hampton,

Commission Staff acknowledges receipt on January 8, 2020 of Cumberland Valley Electric's (Cumberland Valley) 2020-2023 Construction Work Plan (CWP). 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 Certificate of Public Convenience and Necessity (CPCN), Commission Staff has reviewed the projects contained in Cumberland Valley's 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, Cumberland Valley proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$5,224,599; (2) Code 300 line conversion and replacement at an

estimated total cost of \$1,954,700; (3) Code 600 miscellaneous distribution equipment at an estimated total cost of \$13,601,817;¹ and (4) Code 700 other distribution items (security lights and AMI equipment) at an estimated cost of \$3,341,213.

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 2018

¹ The estimated cost of each individual Code 600 projects over the four-year CWP period are as follows:

- Code 601 – New Transformers/Meters\$5,744,098
- Code 602 – Service Upgrades\$432,057
- Code 603 – Sectionalizing\$400,000
- Code 604 – Voltage Regulators\$124,000
- Code 606 – Pole Replacement\$6,317,662
- Code 607 – Miscellaneous\$120,000
- Code 608 – Conductor Replacement (OH)\$464,000

Annual Report, which shows Cumberland Valley having total utility plant of approximately \$64,562,429 as of December 31, 2018. Commission Staff is of the opinion that the individual projects in Cumberland Valley's 2020-2023 CWP do not require a CPCN with the exception of the projects associated with Code 606 – Pole Changes. Additional information is needed before Commission Staff can make a final evaluation as to whether the Code 606 project can be considered exempt from the CPCN requirement. As for the other individual projects, when reviewed individually, each of those proposed construction project based on its estimated cost would not materially impact Cumberland Valley's existing financial condition. Therefore, each construction project (other than the Code 606 project) is generally considered 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 Cumberland Valley'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 Cumberland Valley's 2020-2023 CWP (other than the Code 606 project) satisfy the "ordinary course of business" exemption from CPCN requirement.

Regarding the Code 606 project, Commission Staff requests that Cumberland Valley provide a response to the following question.

1. Refer to the 2020-2023 CWP, Exhibit B, page 3 of 3, regarding Code 606 – Pole Replacement. Explain why the average cost per pole increased from \$3,252 in 2017 to \$7,451 in 2018. Also, provide the average cost per pole replacement for years 2013, 2014, 2015 and 2016.

Commission Staff also requests that Cumberland Valley provide a response to the following clarifying questions.

2. Refer to the 2020-2023 CWP, Exhibit B, page 1 of 3, regarding Code 101 – New Services (Underground). Explain why the average cost per service increased from \$2,278 in 2017 to \$3,662 in 2018. Also, provide the average cost per underground service for the years 2013, 2014, 2015 and 2016.
3. Refer to the 2020-2023 CWP, Exhibit B, page 2 of 3, regarding Code 601 – Transformers and Meters. Explain why Cumberland Valley anticipates replacing 6,000 meters for each of 2020 and 2021 but projects replacing 2,750 meters for each of 2022 and 2023.

Cumberland Valley should provide responses to these questions within 10 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 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 "John E.B. Pinney". The signature is stylized and cursive.

John E.B. Pinney
Acting General Counsel

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