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January 27, 2020

PSC STAFF OPINION 2020-003

Goss Samford PLLC
Attention: David S. Samford
2365 Harrodsburg Road
Suite B-325
Lexington, KY 40504

Re: Request for Staff Advisory Opinion Regarding the Streamlined Procedure for Electric Cooperatives

Dear Mr. Samford:

The Commission acknowledges receipt of your January 17, 2020 letter on behalf of an unidentified electric distribution cooperative (Cooperative) requesting an advisory opinion. This opinion represents Commission Staff's (Staff) 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 be formally presented for Commission resolution.

A copy of your letter that sets forth the entirety of the request is attached to this letter. You request a legal advisory opinion on when the ten-year period, established by the Commission in Case No. 2018-00407, *A Review of the Rate Case Procedure for Electric Distribution Cooperatives*, begins to run. That provision provides that no cooperative may avail itself of the streamlined procedure if "more than ten years has elapsed since the Distribution Cooperative's most recent base rate increase." Specifically, you request an opinion regarding the following questions: 1) whether the ten-year period begins to run on the effective date of the Cooperative's rates approved in its last general rate case, or the date upon which the Cooperative filed its application in the general rate case; and 2) whether the ten-year period can be met upon the filing of thirty-day notice of intent to file a streamlined case, or when the application is actually filed.

The answers to your questions are as follows. Regarding when the ten-year period begins to run, it is Staff's opinion that the period begins to run upon the effective date of the rates approved in the Cooperative's last general rate case. Similarly, it is Staff's opinion that timely filing under the ten-year deadline is affected upon the filing of the thirty-day advance notice. Therefore, as long as the thirty-day advance notice is filed within 10 years of the effective date of the rates approved in the Cooperative's last general rate case, and the application is filed within a reasonable time of the filing of the thirty-day advance notice, the filing would be timely under the streamlined rate procedure. Even if timely filed, however, the Commission has the discretion to accept or reject an application for processing under the streamlined procedures.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and is not binding on the Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to J.E.B. Pinney, Acting General Counsel, at 502-782-2587.

Sincerely,



J.E.B. Pinney
Acting General Counsel

kg

**Goss
Samford**

ATTORNEYS AT LAW | PLLC

David S. Samford
david@gosssamfordlaw.com
(859) 368-7740

January 17, 2020

VIA EMAIL AND U.S. MAIL

Ms. Gwen Pinson
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RECEIVED

JAN 21 2020

PUBLIC SERVICE
COMMISSION

Re: Request for Staff Advisory Opinion

Dear Ms. Pinson:

On behalf of an electric distribution cooperative client, please accept this as a request for a Staff Advisory Opinion regarding the appropriate timeframe for an electric distribution cooperative to seek to avail itself of the streamlined rate case procedure that is spelled out in the Commission's March 26, 2019 and December 20, 2019 Orders in Case No. 2018-00407, *In the Matter of a Review of the Rate Case Procedure for Electric Distribution Cooperatives*. The Commission stated in the December 20th Order that a prerequisite to using the streamlined process was: "No more than ten years has elapsed since the Distribution Cooperative's most recent base rate increase."

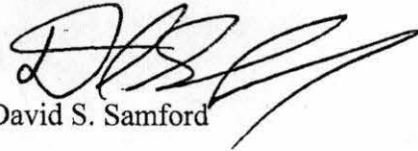
We understand this to mean that the ten-year period begins to run on the effective date of the electric distribution cooperative's new base rates and not the date upon which the cooperative filed its application seeking approval of such rates or any other date. As a hypothetical, if an electric distribution cooperative filed a base rate application on November 18, 2009, and its rate increase was ultimately approved and its new base rates became effective on April 16, 2010, then we understand that the cooperative would be eligible to seek a base rate increase under the streamlined process until and through April 16, 2020. We respectfully request the Staff to confirm whether this understanding is correct.

Similarly, we seek Staff's guidance as to whether filing the thirty-day advance notice with the Commission is sufficient to timely invoke the streamlined process or whether the cooperative's application must be filed prior to the expiration of the ten-year deadline. Using the same hypothetical as above, if a utility's most recent base rate increase was approved and became effective on April 16, 2010, must it file its application prior to April 16, 2020 in order to use the streamlined process? Or, alternatively, will the cooperative's filing with the Commission of its thirty-day advance notice satisfy the requirement for seeking to adjust rates under the streamlined process in a timely fashion? We again respectfully request the Staff's guidance on this point.

Ms. Gwen Pinson
January 17, 2020
Page Two

Should Staff have any questions regarding this request for an Advisory Opinion, please do not hesitate to contact me. Also, to the extent possible, we would respectfully request an expedited consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. S. Samford', written in a cursive style.

David S. Samford

cc: J.E.B. Pinney
Kent Chandler