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March 31, 2021

PSC STAFF OPINION 2021-001

Hon. Scott Tentinger
Sargent & Lundy
55 E. Monroe
Chicago, IL 60603
scott.j.tentinger@sargentlundy.com

Re: Request for a Staff Opinion – Regarding the Need for Siting Board Approval

Dear. Mr. Tentinger:

Commission Staff¹ acknowledges receipt on March 10, 2021, of your email sent on behalf of GridLiance Heartland (GridLiance), in which you request an opinion as to whether the removal and reconstruction of 7.4 miles of existing 161 kV transmission line coupled with replacement of lattice structures requires a siting certificate from the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board). Staff also acknowledges receipt on March 23, 2021, email regarding applicable construction standards to be applied.

Your emails present the following facts: GridLiance is a utility not regulated by the Kentucky Public Service Commission (PSC). GridLiance owns and operates an existing 161 kV transmission line partially located within McCracken County, Kentucky. GridLiance wishes to remove and reconstruct approximately 7.4 miles of existing transmission line. All removal and reconstruction work would occur along an existing right-of-way (ROW). Additional construction involves the removal of existing wood H-frame structures and conductor, reconstruction of the transmission line with structural steel structures, installation of temporary access to the existing and new structures for construction activities, and installation of associated temporary work areas. GridLiance notes the removal and reconstruction would be conducted in accordance with accepted engineering practices and the National Electric Safety Code.

¹ Pursuant to KRS 278.702(3), Commission Staff serves as permanent administrative staff for the Siting Board.

Commission Staff finds no relevant Siting Board decision addressing the particular issues raised by GridLiance. Commission Staff notes KRS 278.714 states that construction of a “nonregulated electric transmission line” requires a Certificate of Construction issued by the Siting Board. KRS 278.700(4)² and (5)³ provide definitions for construction and nonregulated electric transmission lines. Commission Staff notes PSC Staff Opinion 2020-006 presents facts very similar to the facts described in this request.

PSC Staff Opinion 2020-006 involves a request by Duke Energy Ohio, Inc. (Duke Ohio) concerning upgrades to a non-regulated 138 kV transmission line. Duke Ohio requested an opinion on whether decommissioning approximately 650 feet of existing transmission line, construction, removal and relocation of poles within existing ROW, and installation of roughly 425 feet of transmission line requires a Siting Board certificate. Duke Ohio cited to PSC Staff Opinion 2010-001 in support of its proposition the proposed project constituted normal repair and maintenance within the establish ROW.

PSC Opinion 2020-006 analyzed the facts of the Duke Ohio request under KRS 278.141(1), KRS 278.700(4), KRS 278.700(5), and applying the reasoning of PSC Staff Opinion 2010-001 in concluding that, based upon the facts presented, the described work did not require a construction certificate from the Siting Board. Commission Staff noted the work could properly be characterized as maintenance and repair of the current transmission line to ensure adequate electric service.

Commission Staff is of the opinion the facts presented in GridLiance’s letter are similar to the facts described in PSC Staff Opinion 2020-006. Commission Staff concludes the removal and reconstruction of approximately 7.4 miles of existing transmission line, removal of wood H-frame structures, reconstruction of the transmission line with structural steel structures, and associated temporary work areas, which will all be done within existing ROW, can be characterized as maintenance and repair of the current 161 kV transmission line to ensure the transmission line continues to provide

² KRS 278.700(4) provides as follows:

"Commence to construct" means physical on-site placement, assembly, or installation of materials or equipment which will make up part of the ultimate structure of the facility. In order to qualify, these activities must take place at the site of the proposed facility or must be site-specific. Activities such as site clearing or excavation work will not satisfy the commence to construct requirements...."

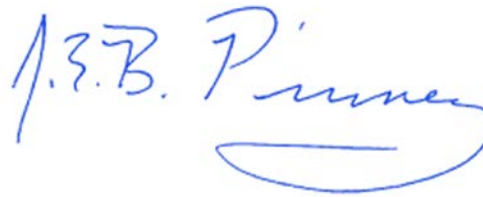
³ KRS 278.700(5) provides as follows:

"Nonregulated electric transmission line" means an electric transmission line and related appurtenances for which no certificate of public convenience and necessity is required; which is not operated as an activity regulated by the Public Service Commission; and which is capable of operating at or above sixty-nine thousand (69,000) volts...."

adequate electric service. Accordingly, Commission Staff is of the opinion that such modification does not require a construction certificate issued by the Siting Board.

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 (502) 782-2586.

Sincerely,

A handwritten signature in blue ink that reads "J.E.B. Pinney". The signature is written in a cursive style with a large, sweeping underline.

John E.B. Pinney,
Acting General Counsel

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