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August 17, 2023

PSC STAFF OPINION -2023-004

Brittany Hayes Koenig
1795 Alysheba Way, Ste. 6202
Lexington, Kentucky 40509
Phone: (859) 368-8803

Re: Taylor County Rural Electric Cooperative Corporation, 2023-2026 Construction Work Plan

Dear Ms. Koenig:

Commission Staff acknowledges receipt of your letter dated July 25, 2023, on behalf of Taylor County Rural Electric Cooperative Corporation (Taylor County RECC) requesting a staff advisory opinion. Specifically, the letter requests an opinion as to whether any or all projects contained in Taylor County RECC's 2023-2026 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 of KRS 278.020(1)(a)2 and 807 KAR 5:001, Section 15(3), 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 Taylor County RECC's 2023-2026 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 2023-2026 CWP, Taylor County RECC proposes construction identified by the following RUS Codes: New Lines – RUS Code 100 at a projected cost of \$9,801,400; 2) Conversion and Line Changes- RUS Code 300 at a projected cost of \$5,616,720; 3) Miscellaneous Distribution Equipment – RUS Code 600 at a projected cost of \$12,954,213; 4) Other Distribution Items- RUS Code 700 at a projected cost of \$3,648,284. The total estimated cost of all projects contained in Taylor County RECC's CWP is \$32,020,617.

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.

Included in Taylor County RECC's 2023-2026 CWP is a project listed as "Special Projects within the Code 700 classification." It contains funds to start an automated meter infrastructure (AMI) equipment replacement project. The overall AMI project is estimated to total approximately \$6-7 million and will require a total change out of all meters. Additionally, a Supervisory Control and Data Acquisition (SCADA) project is included in the 700 coding, Code 704 Load Management/SCADA - \$750,000 (\$187,500 per year in each of the four years of the CWP).

Taylor County RECC was included as a party to Case Number 2012-00428, *Consideration of the Implementation of Smart Grid and Smart Meter Technologies*. As a party to that case, Taylor County RECC received a copy of the final order dated April 13, 2016 that stated in pertinent part:

With regard to CPCNs, the Commission finds it appropriate for jurisdictional electric utilities to obtain CPCNs for major AMR or AMI meter investments and distribution grid investments for DA, SCADA or volt/var resources. In the past, when addressing requests for CPCNs for AMR and AMI meters, the Commission has noted its concern regarding a number of meter related issues such as cost, compatibility with current system equipment and software, and unplanned obsolescence.

Commission Staff is of the opinion that the AMI Project and the SCADA Project does not satisfy the "ordinary course of business" exemption and would, therefore, require a CPCN authorization from the Commission prior to commencing this part of the Construction Work Plan.

In analyzing whether the proposed projects would materially affect Taylor County RECC's financial condition, Commission Staff takes notice of Taylor County RECC's 2022 Annual Report, which shows Taylor County RECC having net utility plant of approximately \$65,668,481.00 as of December 31, 2022. With the exception of the AMI Project and the SCADA Project, Commission Staff is of the opinion that the individual projects in Taylor County RECC's 2023-2026 CWP do not require a CPCN. When reviewed individually, each of those proposed construction projects, with the exception of the AMI Project and the SCADA Project, based on its estimated cost would not materially affect Taylor County RECC's existing financial condition. Therefore, with the exception of the AMI Project and the SCADA Project, each construction project is generally considered an extension in the ordinary course of business. Likewise, the cost estimate of each project, with the exception of the AMI Project and the SCADA Project, considered separately in the 2023-2026 CWP will not have an immediate or significant impact on Taylor County RECC's rates. Lastly, with the exception of the AMI Project and the SCADA Project, 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, with the exception of the AMI Project and the SCADA Project, that each of the proposed projects set out in Taylor County RECC's 2023-2026 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 Andrew Bowker at (502) 782-2580.

Sincerely,



Linda Bridwell
Executive Director