

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER)	
COOPERATIVE, INC. FOR AN ORDER DECLARING)	
THE HARDIN COUNTY LANDFILL GAS TO)	CASE NO.
ENERGY PROJECT TO BE AN ORDINARY)	2005-00164
EXTENSION OF EXISTING SYSTEMS IN THE)	
USUAL COURSE OF BUSINESS)	

O R D E R

On April 22, 2005, East Kentucky Power Cooperative, Inc. (“East Kentucky Power”) filed an application requesting the Commission to declare that East Kentucky Power’s Hardin County Landfill Gas to Energy (“LFGTE”) project is an ordinary extension of existing electric systems in the usual course of business and that a Certificate of Public Convenience and Necessity will not be required to construct the proposed facility. The Commission has on two prior occasions granted similar declarations, finding that relatively small-sized LFGTE projects are exempt from the requirements for a Certificate of Public Convenience and Necessity under KRS 278.020(1).¹

¹ Case No. 2002-00352, Application of East Kentucky Power Cooperative, Inc. For an Order Declaring Landfill Gas to Energy Projects to be Ordinary Extensions of Existing Systems in the Usual Course of Business (Order dated Dec. 18, 2002), and Case No. 2002-00474, Application of East Kentucky Power Cooperative, Inc. For an Order Declaring the Green Valley and Laurel Ridge Landfill Gas to Energy Projects to be Ordinary Extensions of Existing Systems in the Usual Course of Business (Order dated Mar. 3, 2003).

East Kentucky Power plans to construct a 2.4 MW LFGTE facility to be located at the Pearl Hollow Landfill in southeastern Hardin County, near the Nelson County line.² East Kentucky Power has entered into a 20-year contract with the owner of the landfill, Hardin County, Kentucky, to purchase landfill gas at a price that is less than East Kentucky Power's current cost of coal. East Kentucky Power states that the project will provide small, but reliable and economic, quantities of electric energy, which are generated by renewable resources. The energy will be sold by East Kentucky Power to its member systems for service to their member consumers.

KRS 278.020 requires a utility to obtain a Certificate of Public Convenience and Necessity prior to constructing any new facility that is intended to furnish regulated utility services to the public. However, this statute also provides an exemption from the certificate requirement if the new facility is an ordinary extension of existing systems in the usual course of business. Commission regulations, 807 KAR 5:001, Section 9(3), define "ordinary extensions in the usual course of business" as those that: do not create wasteful duplication of plant and facilities, or do not conflict with existing certificates or service of other regulated utilities in the same area; and do not involve sufficient capital outlay to materially affect the existing financial condition of the utility, or result in increased charges to its customers.

Based on the application and being otherwise sufficiently advised, the Commission finds that the Hardin County LFGTE project satisfies the criteria set forth in 807 KAR 5:001, Section 9(3), to be classified as an ordinary extension in the usual

² The Hardin County LFGTE project is planned for expansion to 3.2 MW and 4.0 MW in 2008 and 2011, respectively. See Application Exhibit 1 at 1.

course of business. With an investment requirement of approximately \$4.7 million,³ the cost to construct and operate the facility will not materially affect East Kentucky Power's financial condition or result in an increase in East Kentucky Power's wholesale power rates.

In addition, the facility will not conflict with the existing certificates or service of other utilities under the Commission's jurisdiction. Therefore, the project will not create wasteful duplication of plant, equipment, property, or facilities.

IT IS THEREFORE ORDERED that the Hardin County LFGTE project is properly classified as an ordinary extension of existing systems in the usual course of business and a Certificate of Public Convenience and Necessity, pursuant to KRS 278.020(1), is not required for its construction.

Done at Frankfort, Kentucky, this 8th day of July, 2005.

By the Commission

ATTEST:


Executive Director

³ Application Exhibit 1, Section 4.0.