

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER)	
COOPERATIVE, INC. FOR AN ORDER)	
DECLARING THE PENDLETON COUNTY)	CASE NO. 2006-00033
LANDFILL GAS TO ENERGY PROJECT TO)	
BE AN ORDINARY EXTENSION OF EXISTING)	
SYSTEMS IN THE USUAL COURSE OF BUSINESS)	

O R D E R

On January 23, 2006, East Kentucky Power Cooperative, Inc. (“East Kentucky Power” or “Applicant”) filed an application requesting the Commission to declare that East Kentucky Power’s Pendleton 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. On three prior occasions, the Commission has 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); 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); and Case No. 2005-00164, Application of East Kentucky Power Cooperative, Inc. For an Order Declaring the Hardin County Landfill Gas to Energy Projects to be Ordinary Extensions of Existing Systems in the Usual Course of Business (Order dated July 8, 2005).

East Kentucky Power plans to construct a 3.2 MW LFGTE facility to be located near Butler, Kentucky in Pendleton County. East Kentucky Power has entered into a 20-year contract with the owner of the landfill, Rumpke of Kentucky, Inc., to purchase landfill gas at a price that, on a cents-per-million-Btu basis, is less than Applicant's current cost of coal. East Kentucky Power states that the project will provide small, but reliable and economic, quantities of electric energy, that are generated by renewable resources. The energy will be sold to East Kentucky Power's member systems for service to their member consumers.

On February 15, 2006, Commission Staff served a data request on Applicant for additional information about projected costs and availability factors. East Kentucky Power filed its response on February 23, 2006.

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. That statute, however, 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 regulation 807 KAR 5:001, Section 9(3), defines that exemption as follows:

(3) Extensions in the ordinary course of business. No certificate of public convenience and necessity will 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 area in which the utility renders service or contiguous thereto, 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.

Based on the application and the response to the data request, and being otherwise sufficiently advised, the Commission finds that the Pendleton 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 course of business. With an investment requirement of approximately \$5 million, 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 Pendleton 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 10th day of March, 2006.

By the Commission

ATTEST:



Executive Director