

# Goss ■ Samford PLLC



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

February 8, 2013

*Via Hand-Delivery*

Mr. Jeffrey Derouen  
Executive Director  
Kentucky Public Service Commission  
P.O. Box 615  
211 Sower Boulevard  
Frankfort, KY 40602

RECEIVED

FEB 08 2013

PUBLIC SERVICE  
COMMISSION

Re: In the Matter of: Petition and Complaint of Grayson RECC for an Order Authorizing Purchase of Electric Power at the Rate of Six Cents Per Kilowatts of Power vs. a Rate in Excess of Seven Cents Per Kilowatt Hour Purchased from EKPC under a Wholesale Power Contract as Amended Between Grayson RECC and EKPC  
PSC Case No. 2012-00503

Dear Mr. Derouen:

Enclosed please find for filing with the Commission in the above-referenced case an original and ten (10) copies each of East Kentucky Power Cooperative, Inc.'s Response to Grayson Rural Electric Cooperative Corporation's Motion. Please return a file-stamped copy to me.

Do not hesitate to contact me if you have any questions.

Very truly yours,

David S. Samford

Enclosures

M:\Clients\4000 - East Kentucky Power\1800 - Grayson Litigation\  
Correspondence\Ltr. to Jeff Derouen - 130208.docx

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**PETITION AND COMPLAINT OF GRAYSON )  
RURAL ELECTRIC COOPERATIVE )  
CORPORATION FOR AN ORDER )  
AUTHORIZING PURCHASE OF ELECTRIC )  
POWER AT THE RATE OF SIX CENTS PER )  
KILOWATTS OF POWER VS. A RATE IN )  
EXCESS OF SEVEN CENTS PER KILOWATT )  
HOUR PURCHASED FROM EAST KENTUCKY )  
POWER COOPERATIVE UNDER A )  
WHOLESALE POWER CONTRACT AS )  
AMENDED BETWEEN GRAYSON RURAL )  
ELECTRIC COOPERATIVE CORPORATION )  
AND EAST KENTUCKY POWER )  
COOPERATIVE, INC. )**

**RECEIVED**

**FEB 08 2013**

**PUBLIC SERVICE  
COMMISSION**

**Case No.  
2012-00503**

---

**EAST KENTUCKY POWER COOPERATIVE, INC.'S RESPONSE TO GRAYSON  
RURAL ELECTRIC COOPERATIVE CORPORATION'S MOTION**

---

Comes now the Respondent, East Kentucky Power Cooperative, Inc. ("EKPC"), by counsel, and in response to the Motion filed by Grayson Rural Electric Cooperative Corporation ("Grayson") on or about February 6, 2013, states as follows:

Grayson's Motion is premature in that the Commission has not yet issued an Order on EKPC's Motion to Dismiss those portions of Grayson's Petition which are beyond the scope of the Commission's jurisdiction or that otherwise fail to state a claim under KRS Chapter 278.<sup>1</sup> Grayson's Motion should be denied accordingly.

---

<sup>1</sup>Pursuant to 807 KAR 5:001, Section 5(2), Grayson's response to the Motion to Dismiss was due on January 18, 2013. Grayson did not tender a response to the Motion to Dismiss and has not sought leave to file an untimely response.

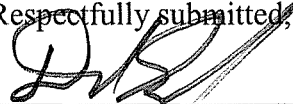
In the event the Commission sustains Grayson's Motion, EKPC respectfully requests the Commission to do so in the context of its Order adjudicating EKPC's Motion to Dismiss the Petition and to set forth with particularity the issues before the Commission and, therefore, subject to discovery via the contemplated depositions. In addition, Grayson should also be required to specifically identify any individuals that it seeks to depose before any authority is granted by the Commission pursuant to KRS 278.340. EKPC respectfully requests that, in any depositions taken in this matter, Commission Staff counsel should be allowed and encouraged to attend.

Finally, Grayson's Motion includes a request to schedule a hearing on the merits of this case. The decision to hold a hearing of course lies within the sound discretion of the Commission under KRS 278.260(2). Thus, even if the Commission were to grant Grayson's Motion to set a procedural schedule, the request to set a final hearing date is certainly premature and should be denied.

In tendering this response, EKPC expressly reserves any and all objections that may be available under Kentucky law to any specific request to take depositions or other discovery methods which Grayson may pursue.

This 8th day of February, 2013.

Respectfully submitted,



---


Mark David Goss  
David S. Samford  
GOSS SAMFORD, PLLC  
2365 Harrodsburg Road, Suite B130  
Lexington, Kentucky 40504  
(859) 368-7740

*Counsel for East Kentucky Power  
Cooperative, Inc.*

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing was served by depositing same into the custody and care of the U.S. Mail, postage prepaid on this 8th day of February, 2013, addressed to the following:

W. Jeffrey Scott  
W. Jeffrey Scott, PSC  
P. O. Box 608  
Grayson, KY 41143

  
\_\_\_\_\_  
*Counsel for Respondent*

M:\Clients\4000 - East Kentucky Power\1800 - Grayson Litigation\  
Drafts\EKPC's Response to Grayson's Motion - 130208.docx