

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

MAR 31 2014

PUBLIC SERVICE  
COMMISSION

In the Matter of:

PETITION AND COMPLAINT OF GRAYSON )  
RURAL ELECTRIC COOPERATIVE )  
CORPORATION FOR AN ORDER )  
AUTHORIZING PURCHASE OF ELETRIC )  
POWER AT THE RATE OF SIX CENTS PER )  
KILOWATT HOUR UP TO 9.4 MEGAWATTS ) CASE NO.  
OF POWER VS. A RATE IN EXCESS OF SEVEN ) 2012-00503  
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. )

**RESPONSE OF GRAYSON RURAL ELECTRIC TO  
SECOND REQUEST FOR INFORMATION**

Comes now Grayson Rural Electric Cooperative Corporation (GRECC) and for its response to the Second Request for Information states as follows:

**REQUEST NO. 1:** Refer to Grayson's Response to Request No. 11(d) of the First Request for Information propounded by East Kentucky Power Cooperative, Inc., et al. Please provide a detailed description of the timing, nature, and substance of contact Grayson has had with PJM Interconnection, LLC ("PJM"), regarding the proposed purchase of power from Duke Commercial Asset Management, Inc. ("Duke Commercial"). Please further provide all documents evidencing or related to said contacts.

**RESPONSE:** GRECC has had no communication with PJM.

**REQUEST NO. 2:** Please admit that Grayson has not yet entered into a written power purchase agreement with Duke Commercial.

**RESPONSE:** Admit, GRECC has not entered into a written power purchase agreement with Duke Commercial.

**REQUEST NO. 3:** Please describe in detail the nature and substance of any communication(s) occurring prior to November 19, 2012 between Grayson counsel Jeff Scott and the PSC or PSC Staff regarding the PSC's jurisdiction over Amendment 3 to the Wholesale Power Contract between Plaintiff, EKPC and Rural Utilities Service. Please also identify all individuals involved in the subject communication(s).

**RESPONSE:** Grayson Rural Electric Cooperative Corporation objects to this information request as it obviously is seeking attorney work product. However, without waiving said objection Grayson Rural Electric Cooperative Corporation states that it believes that it's counsel, Hon. W. Jeffrey Scott, while at the Commission on an unrelated matter asked one of the Commission's staff attorneys about whether the Commission would have jurisdiction to entertain the within action or if the within action was one outside the exclusive jurisdiction of the PSC as defined by Kentucky law and would, therefore, need to be filed in a Circuit Court action. The exact date of this is unknown but it was believed to be sometime in August of 2012. It is believed that Carol Hall Fraley would have been present at the time of that conversation.

**REQUEST NO. 4:** Please provide copies of any and all documents, recordings, and/or other materials that relate to the presentation prepared by Carol Fraley that was to be given to the EKPC Strategic Issues Committee concerning the Magnum Drilling project, the same having been referenced in the minutes of Plaintiff's Board meeting held July 20, 2012.

**RESPONSE:** See attached powerpoint.

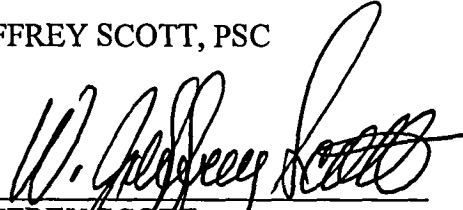
**REQUEST NO. 5:** Please provide copies of any and all notes and/or other materials that relate to Carol Fraley's meeting with the PSC or PSC Staff on August 30, 2012, regarding the Magnum Drilling project.

**RESPONSE:** There are no notes from this meeting.

RESPECTFULLY SUBMITTED,

W. JEFFREY SCOTT, PSC

BY:

  
W. JEFFREY SCOTT  
ATTORNEY FOR GRECC  
311 WEST MAIN STREET  
P.O. BOX 608  
GRAYSON, KY 41143  
(606) 474-5194

*I have read the foregoing and state that it is true and correct to the best of my knowledge and belief.*

  
CAROL ANN FRALEY

STATE OF KENTUCKY

COUNTY OF CARTER

Subscribed and sworn to before me by *CAROL ANN FRALEY* this 26<sup>th</sup> day of March, 2014.

My commission expires: August 23, 2014

  
NOTARY PUBLIC, KENTUCKY STATE AT LARGE

Notary ID # 426639

This is to certify that the foregoing document has been served upon the parties by mailing a true and correct copy of same to:

Hon. James M. Crawford  
Crawford & Baxter, PSC  
Counsel for Fleming-Mason & Owen Rural Electric  
P.O. Box 353  
Carrollton, KY 41008

Hon. Mark David Goss  
Hon. David S. Samford  
GOSS SAMFORD, PLLC  
2365 Harrodsburg Road, Suite B 325  
Lexington, KY 40504

Hon. Clayton O. Oswald  
Taylor, Keller & Oswald  
P.O. Box 3440  
1306 West 5<sup>th</sup> Street, Suite 100  
London, KY 40743-00344

Hon. Don Prather  
Mathis Riggs & Prather, PSC  
500 Main Street, Suite 5  
Shelbyville, KY 40065

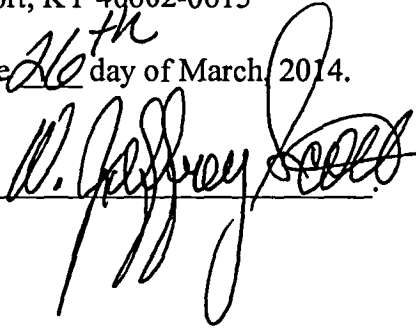
Salt River Electric Cooperative Corp.  
111 West Brashear Avenue  
P.O. Box 609  
Bardstown, KY 40004-0609

Taylor County RECC  
625 West Main Street  
P.O. Box 100  
Campbellsville, KY 42719

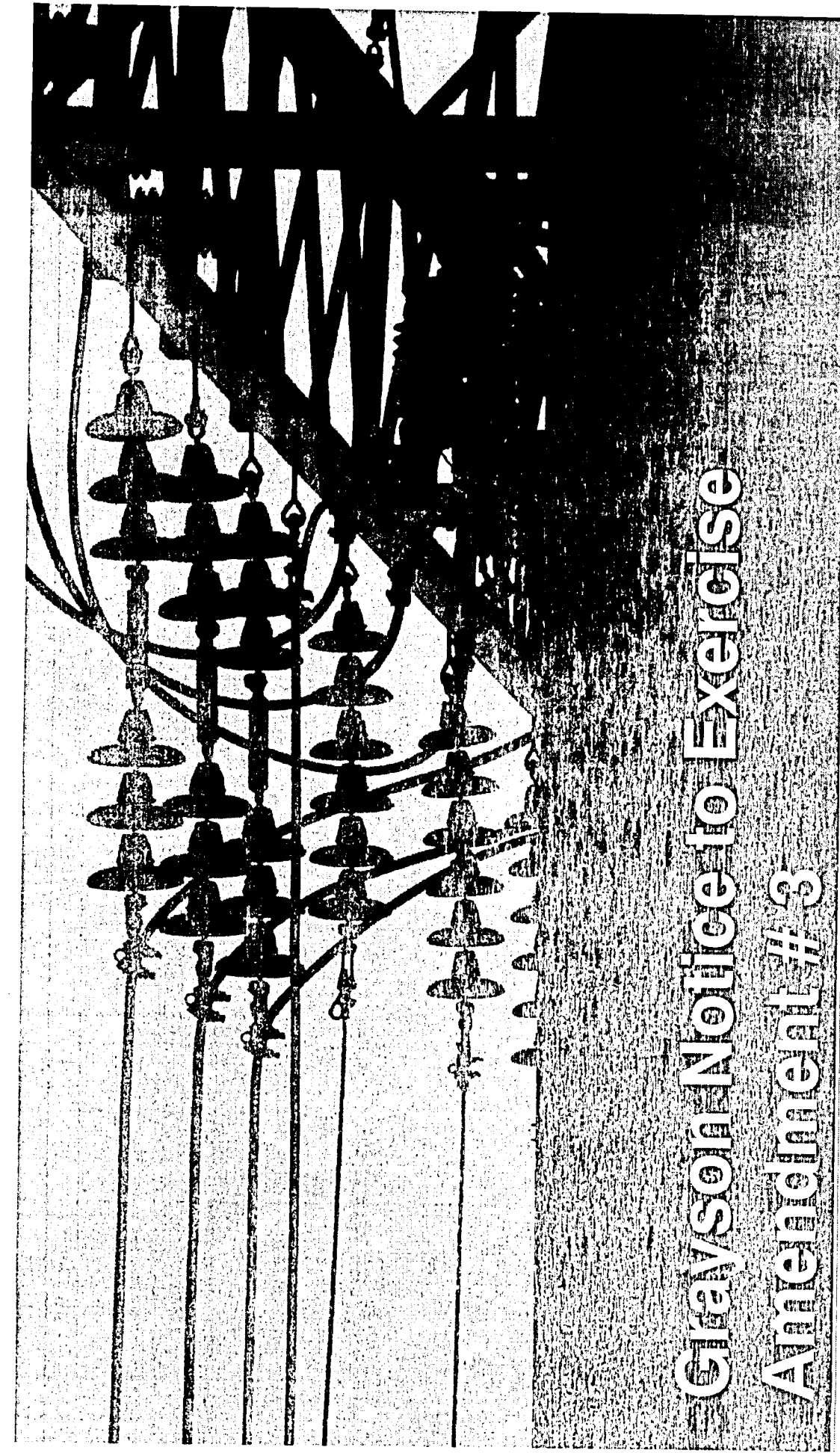
This is to further certify that the original plus  
10 copies of this document has been forwarded  
to the Kentucky Service Commission as follows:

Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40602-0615

This the 26<sup>th</sup> day of March, 2014.

  
\_\_\_\_\_





**Grayson Notice to Exercise  
Amendment # 3**

**July 16, 2012**



EAST KENTUCKY POWER COOPERATIVE

A Division of Eastern Kentucky Power Company

## Grayson's Request

- Received letter stating Grayson intends to receive electric power from Magnum Drilling of Ohio
  - States this would equate to 10.7 MW
    - See attached email from Jamie Hall
  - States 10.7 MW is approximately 15% of Grayson's 3-year rolling average of their peak
    - Looking at Amendment #3, we agree to the three (3) 12-month periods preceding our letter of notification; which makes the max approximately 9.4 MW
  - States this will equate to \$800K in member savings per year
    - Conservatively based on 8 MW. Would increase based on a 9.4 MW purchase
  - States Other details available upon request





**From:** Jamle Hall  
**Sent:** Friday, May 11, 2012 9:38 AM  
**To:** Jeff Brandt; David Crews  
**Cc:** Julie Tucker  
**Subject:** Amendment 3 Limits for Grayson RECC

Good morning!

As you requested, based on data from calendar years 2009 to 2011, Grayson's 5% of peak share is 3.57 MW, and their 15% limit is 10.71 MW. Based on data from calendar years 2010 to 2012 (to date), Grayson's 5% of peak share is 3.17 MW, and their 15% limit is 9.51 MW. It is possible that this December's peak will exceed January's and that number will be bumped back slightly above 10 MW. However, either way, if they go for the full 10 MW on the project you mentioned, they should be near the 15% limit for several years to come, with whether they fit under it varying from year to year with the weather.

Jamie Bryan Hall  
Manager of Load Forecasting  
East Kentucky Power Cooperative, Inc.  
4775 Lexington Road, Winchester, KY 40391-9709  
P.O. Box 707, Winchester, KY 40392-0707  
859-744-4812 (main phone)  
859-744-6008 (main fax)  
859-745-9758 (office phone)  
859-595-9657 (cell phone)



EAST KENTUCKY POWER COOPERATIVE

A Traditional Energy Cooperative

### Magnum Drilling Project

#### East Kentucky (2011)

269,049,303 total kwh purchased  
\$ 19,236,058                      \$ 0.0715 per kwh

#### Project Generation (24x7)

8,000 kw  
5,760,000 kwh per month (running constantly)  
69,120,000 kwh per year  
\$ 4,147,200 cost                      \$ 0.0600 per kwh                      84%

#### Reduced Cost of Purchased Power

\$ 794,632 ( $$.0715 - $.0600 = .0115 * 69,120,000 \text{ kwh}$ )  
\$ 18,441,426                      \$ 0.0685 per kwh



## Update on Amendment #3

- Amendment # 3 was signed by Owner-Members in 2003
  - South Kentucky and Fleming Mason held out on the original signing of amendment.
- Jackson Energy requested to exercise 15% and resupply with a 7 x 24 purchase
- Jackson understood if approved, it would have adverse/unfair economic impact to other EKPC Owner-Members; (Jackson agreed to withdraw their request if EKPC would amend.)
  - Jackson did not withdraw based on the fairness issue. Their withdrawal at that time was due to issues with the project.
  - They were approved for project last month in the amount of 1.6 MW. They have additional projects already approved. Their total allotment is approximately 38 MW at 15%.
- After several iterations, Amendment # 5 was proposed.
- We have reached an impasse regarding Amendment #5 with Salt River, Owen, Jackson and Grayson
- EKPC agreed to recommend withdrawal of Amendment #5, with the above group agreeing to find a solution by way of an MOU to Amendment #3 agreed to by all Owner-Members.
  - Grayson applauds EKPC's decision to withdrawal proposal of Amendment #5 and encourages successful resolution of Amendment #3.



## EKPC's Interpretation of Amendment #3

- The spirit of Amendment #3 was based on Owner-Member fairness.
  - Grayson agrees.
- Every Owner-Member should have the opportunity to benefit from their 5% self-supply option.
  - Grayson believes under Amendment #3 the allocation is 15% of EKPC's 5% of peak for the last 3 years (151 MW).
  - (In 2003, when Amendment #3 was signed, the allocation pool for EKPC was 119 MW).
- Owner-Member pays stranded investment costs based on cost-shifting to remaining members for that portion of their load no longer served by EKPC assets.
- Based on the fairness principle, staff believes no Owner-Member should be permitted to exceed their 5% without another Owner-Member's agreement to forfeit a portion of their 5%.
  - Grayson does not intend to exceed their allocation amount. However, we believe there may be an opportunity for a sister cooperative or EKPC to utilize any additional generation.
- Staff believes territory takeover should be handled in a different manner.
  - There is no territory takeover.
- Discuss Policy #304/305
  - Board Policy 304 is not germane.
  - Board Policy 305 does not supersede Amendment #3.



**Owner-Member Cooperative Amendment 3 Limits, Based on Data Through Jun 2012, in MW**

<b>Owner-Member Cooperative</b>	<b>Jul 2009 - Jun 2010</b>	<b>Jul 2010 - Jun 2011</b>	<b>Jul 2011 - Jun 2012</b>	<b>Average</b>	<b>5% Election</b>	<b>15% Election</b>
Big Sandy	68.6	75.2	61.8	68.5	3.4	10.3
Blue Grass	304.6	331.7	278.2	304.9	15.2	45.7
Clark	114.0	126.8	102.7	114.5	5.7	17.2
Cumberland Valley	125.4	139.8	118.1	127.8	6.4	19.2
Farmers	120.1	119.2	102.9	114.0	5.7	17.1
Fleming Mason	163.3	162.3	150.0	158.5	7.9	23.8
Grayson	63.2	69.2	56.3	62.9	3.1	9.4
Inter County	132.6	135.7	111.8	126.7	6.3	19.0
Jackson	252.0	278.8	219.8	250.2	12.5	37.5
Licking Valley	65.2	74.0	59.4	66.2	3.3	9.9
Nolin	184.7	184.9	163.1	177.6	8.9	26.6
Owen (Ex Gallatin Steel)	244.6	256.9	263.1	254.9	12.7	38.2
Salt River	231.9	255.0	241.2	242.7	12.1	36.4
Shelby	95.1	104.3	89.7	96.4	4.8	14.5
South Kentucky	354.0	366.8	304.3	341.7	17.1	51.3
Taylor	129.4	127.2	105.0	120.5	6.0	18.1
<b>Total</b>	<b>2648.7</b>	<b>2808.0</b>	<b>2427.3</b>	<b>2628.0</b>	<b>131.4</b>	



**EAST KENTUCKY POWER COOPERATIVE**

A Trust for the Future. Cooperative. 2

## Risk Mitigation Options for Allowance Allocation - 15%

- Other Owner-Members will lose a portion, or all of their 5% option.
  - Amendment #3 does not plan for each cooperative to utilize their 15% allocation.
- Even with stranded investment recovery, there is risk.
  - There is risk in every aspect of our business. Diligent research and a team effort between the "owner-member" and EKPC can go a long way towards alleviating this issue.
- There will be a proverbial "run on the bank".
  - Grayson believes a "run on the bank" to 151 MW would relieve EKPC's search for 300 MW of power.
  - Could this be viewed as a dynamic response to DSM?
  - As EKPC system grows, the allocation pool will grow allowing other members to participate.
- Denying a portion of Grayson's request could divide the Board.
  - There is absolutely no need to divide the Board.
- Not certain how the PSC will react.
  - We plan to apprise the PSC of our plans.



## Legal Interpretation

- Amendment # 3 was written by RUS
  - Amendment #3 was agreed to by EKPC and the “owner-members”.
- Amendment #3 is not a well written document
  - Grayson believes it covers the needs of the issue and that the real issue lies in the allocation and distribution among the “owner-member” co-ops.
- Amendment #3 states the Owner-Member may not exceed 15%; does not state the Owner-Member may automatically take 15%; confirmed by all Owner-Members by adopting Policy 305
  - “...no Member shall receive more than fifteen percent (15%) of the rolling average of its coincident peak demand for the single calendar month with the highest average peak demand occurring during each of the 3 twelve month periods immediately preceding any election by the Member from time to time, as provided herein.” -Amendment #3-
- RUS, each Owner-Member, and EKPC are parties to the wholesale power agreement and amendments
  - Grayson agrees.
- Legal feels EKPC can defend its position
  - Grayson feels that we can legally defend our position.

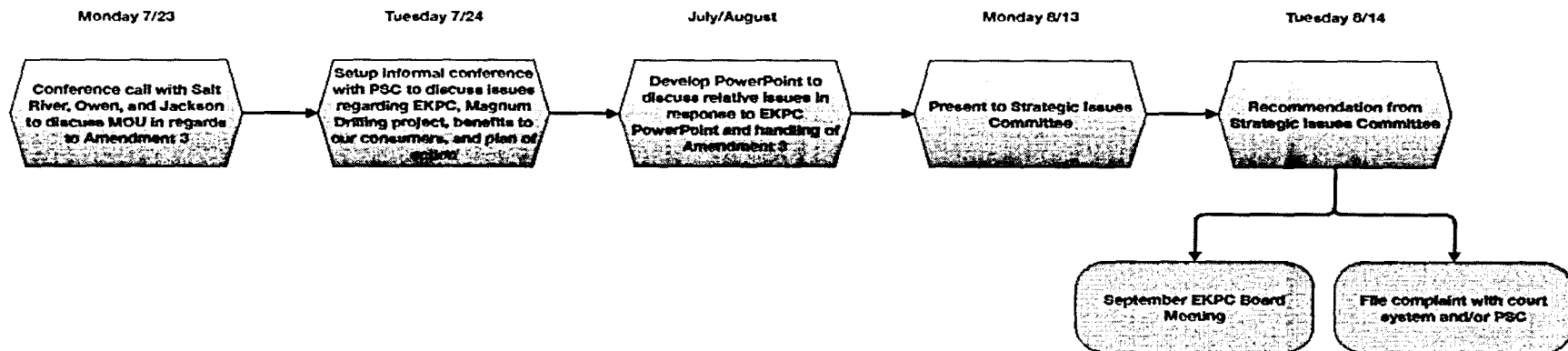
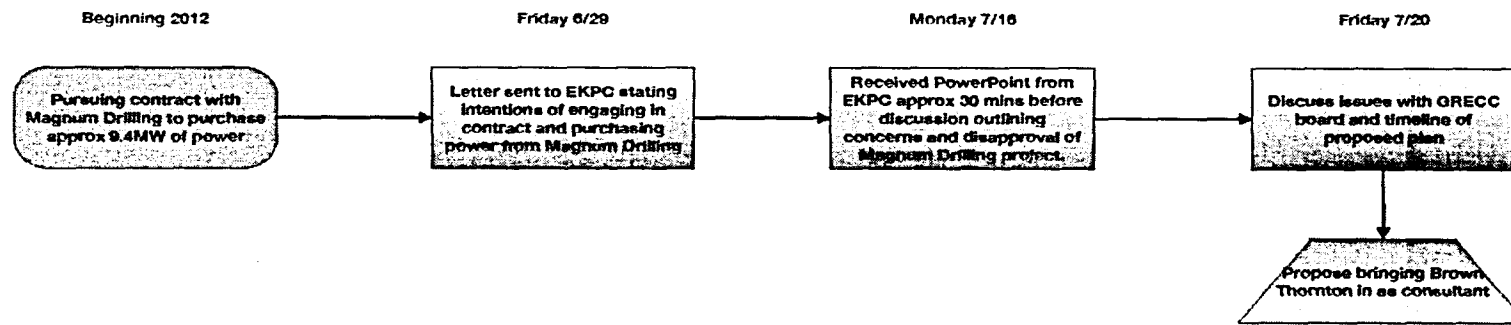


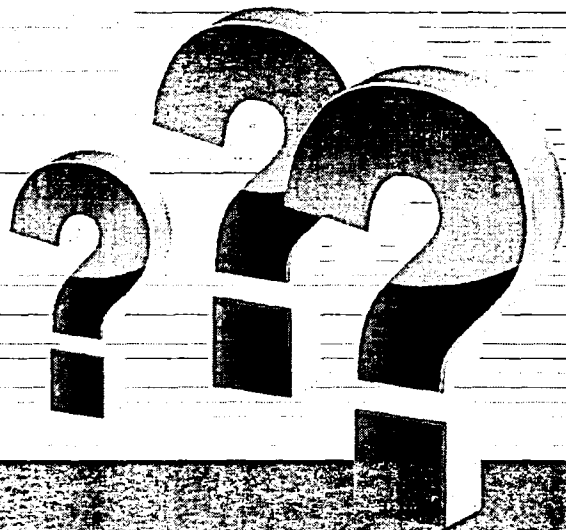
## Staff Recommendation

- Request that other Owner-Members possibly assist Grayson by relinquishing a portion of their 5% option
  - This is not an EKPC issue. The “owner-members” need a plan for allocation.
- EKPC would be willing to work with Grayson and, if good economic prospect, take the amount over their 5%. Assuming the PSC grants approval.
  - Grayson’s entitlement with regards to Amendment #3 is 15% (9.4 MW). We are not asking for any additional allotment .
  - Grayson does feel that EKPC should take the lead in pursuing these opportunities.
- EKPC recommends Board only approve Grayson’s 5%, 3-year rolling average; Any additional percentage should be denied
  - Grayson’s 15% 3-year rolling average (6/09 – 6/12) is 9.4 MW.









# Questions and Discussion