

Goss ■ Samford PLLC



Attorneys at Law

David S. Samford
(859) 368-7740

September 14, 2015

RECEIVED

SEP 14 2015

PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

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


Re: *In the Matter of an Examination by the Public Service Commission of Kentucky of the Environmental Surcharge Mechanism of East Kentucky Power Cooperative, Inc. for the Six-Month Period Ending December 31, 2013 and the Pass-Through Mechanism for its Sixteen Member Distribution Cooperatives, PSC Case No. 2014-00051*

Dear Mr. Derouen:

Please find enclosed for filing with the Commission in the above-referenced proceeding, an original and ten copies of Farmers Rural Electric Cooperative Corporation's and Owen Electric Cooperative, Inc.'s Joint Petition for Rehearing of the Commission's Order dated August 25, 2015. Please return file-stamped copies to my office.

Please contact me if you have any questions.

Sincerely,



David S. Samford

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matter of:

SEP 14 2015

AN EXAMINATION BY THE PUBLIC SERVICE)	PUBLIC SERVICE
COMMISSION OF THE ENVIRONMENTAL)	COMMISSION
SURCHARGE MECHANISM OF EAST KENTUCKY)	
POWER COOPERATIVE, INC. FOR THE)	CASE NO.
SIX-MONTH PERIOD ENDING DECEMBER 31,)	2014-00051
2013 AND THE PASS-THROUGH MECHANISM)	
FOR ITS SIXTEEN MEMBER DISTRIBUTION)	
COOPERATIVES)	

**FARMERS RURAL ELECTRIC COOPERATIVE CORPORATION'S AND OWEN
ELECTRIC COOPERATIVE, INC.'S JOINT PETITION FOR REHEARING**

Come now Farmers Rural Electric Cooperative Corporation ("Farmers RECC") and Owen Electric Cooperative, Inc. ("Owen Electric") (collectively, the "Movants"), by and through counsel, pursuant to KRS 278.400 and other applicable law, and for their Joint Petition requesting that the Commission grant rehearing of the Order entered herein on August 25, 2015, respectfully state as follows:

The Commission's August 25, 2015 Order reviewed and approved the operation of the environmental surcharge mechanism of East Kentucky Power Cooperative, Inc. ("EKPC") and made certain other findings with respect to the pass-through mechanism employed by EKPC's sixteen Members. Among these findings are the amounts that the Members, including the Movants, are to refund to (or collect from) the Members' retail customers.

Unfortunately, the Order contains an inconsistency which, when applied to the Movants, leads to a result that is inconsistent with the plain language and intent of the environmental surcharge statute, KRS 278.183. Specifically, the Order mandates that the Movants refund 1/12th

of the accumulated over-collection in equal installments over a six month period. The contradiction appears to stem from an errant sentence on page 10 of the Commission's Order, which reads: "EKPC stated that the Member Cooperatives proposed that the over-recovery amounts or under-recovery amounts be amortized over a six-month period beginning in the first month after the Commission's Order in this proceeding." However, the direct testimony of Mr. Isaac S. Scott that was filed with the Commission on April 4, 2014 indicates that although the majority of the Members proposed a six-month amortization period, two of the Members were proposing a 12-month amortization period.¹ Mr. Scott also testified that EKPC believed the Members should be able to request different amortization periods when circumstances warrant.²

The circumstances of this case clearly warrant the use of a twelve month amortization period for the Movants. Because of the magnitude of the Movants' over-recoveries in this case, both Farmers RECC and Owen Electric requested a 12-month amortization period to: (1) mitigate unnecessary fluctuations and volatility in retail members' bill; (2) avoid extreme swings between over-collections and under-collections from one review case to the next; and (3) limit impairments to the Movants' operations and financial condition as a result of margin fluctuations and corresponding operational decisions.³ Helping the Movants accomplish these important objectives is reflected in the calculation of the amortized amounts to be refunded that are set forth in the Appendix to the August 25 Order and the Movants are appreciative of the Commission's recognition and accommodation.

¹ See Scott Testimony at 7, Lines 5-10.

² See *id.*, pp. 10-13.

³ See *e.g.* Farmers RECC's Response to Staff's First Request, Item 2b, filed April 3, 2014; Owen Electric's Response to Staff's First Request, Item 2b, filed April 4, 2014; Informal Conference Memorandum, dated June. 25, 2014.

However, the calculation in the Appendix is inconsistent with ordering paragraph 3 on page 12 of the Order. Although the ordering paragraph specifically references the Appendix, it states that each Member's pass-through should be accomplished within the six months following the date of the Order. This appears to be the standard language historically used in the Commission's prior environmental surcharge review Orders and, perhaps, was overlooked when the Commission was calculating the amounts to be amortized within the timeframe requested and as set forth in the Appendix.⁴ If the August 25 Order was literally applied, the total amounts to be returned by the Movants would be half of the total accumulated over-collection. Based upon the amount set forth in the Appendix, this does not appear to be the Commission's intent. While it is possible to comply with the Order as written, it will leave half of the over-accumulation un-refunded.

Accordingly, Farmers RECC and Owen Electric respectfully request that the Commission grant this rehearing request and modify ordering paragraph 3 of the August 25 Order so that the amounts calculated and set forth in the Appendix to said Order will result in a full refund to the Movant's members without unnecessarily impairing the Movants' financial condition and operations.

This 14th day of September 2015.

⁴ In response to data requests that followed the June 18, 2014 informal conference, Farmers and other Members agreed that a six month amortization period was appropriate for amounts to be refunded/collected under the proposed "since inception" model. Since the August 25 Order rejected the "since inception" approach, Farmers RECC's agreement that a six month amortization period was acceptable cannot be ascribed to a different methodology. Likewise, Owen Electric's agreement to use a six month amortization in the event a modified amortization methodology was used is inapplicable here as the August 25 Order denied, without prejudice, that alternative approach to the pass-through mechanism as well. Obviously, the circumstances and ramifications of using the traditional model and alternative models are very different. See Farmers RECC's Response to Staff's Informal Conference Data Requests, Items 1 and 2, filed June 25, 2014; Owen Electric's Response to Staff's Informal Conference Data Requests, Item 1, filed Sept. 30, 2014.

Respectfully submitted,



David S. Samford
L. Allyson Honaker
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B325
Lexington, Kentucky 40504
Phone: (859) 368-7740
david@gossamfordlaw.com
allyson@gossamfordlaw.com

*Counsel for Farmers Rural Electric Cooperative
Corporation and Owen Electric Cooperative, Inc.*

and

James M. Crawford
Crawford and Baxter, PSC
P.O. Box 353
Carrollton, KY 41008-00353
Phone: (502) 732-6688
cbj523@aol.com

Counsel for Owen Electric Cooperative, Inc.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served by depositing same in the custody and care of the U.S. Mails, postage pre-paid, on this 14th day of September, 2015, addressed to the following parties:

Allen Anderson
President & CEO
South Kentucky R.E.C.C.
925-929 N Main Street
P. O. Box 910
Somerset, KY 42502-0910

Kerry K. Howard
CEO
Licking Valley R.E.C.C.
P. O. Box 605
271 Main Street
West Liberty, KY 41472

Chris Brewer
President & CEO
Clark Energy Cooperative, Inc.
2640 Ironworks Road
P. O. Box 748
Winchester, KY 40392-0748

James L. Jacobus
President & CEO
Inter-County Energy Cooperative Corp.
1009 Hustonville Road
P. O. Box 87
Danville, KY 40423-0087

David Estep
President & General Manager
Big Sandy R.E.C.C.
504 11th Street
Paintsville, KY 41240-1422

Debbie J. Martin
President & CEO
Shelby Energy Cooperative, Inc.
620 Old Finchville Road
Shelbyville, KY 40065

Carol Ann Fraley
President & CEO
Grayson R.E.C.C.
109 Bagby Park
Grayson, KY 41143

Michael L. Miller
President & CEO
Nolin R.E.C.C.
411 Ring Road
Elizabethtown, KY 42701-6767

Ted Hampton
Manager
Cumberland Valley Electric, Inc. Highway 25E
P. O. Box 440
Gray, KY 40734

Barry L. Myers
Manager
Taylor County R.E.C.C.
625 West Main Street
P. O. Box 100
Campbellsville, KY 42719

Larry Hicks
President & CEO
Salt River Electric Cooperative Corp.
111 West Brashear Avenue
P. O. Box 609
Bardstown, KY 40004

Joni Hazelrigg
President & CEO
Fleming-Mason Energy Cooperative, Inc.
1449 Elizaville Road
P. O. Box 328
Flemingsburg, KY 41041

Donald Smothers
Blue Grass Energy Cooperative Corp.
1201 Lexington Road
P. O. Box 990
Nicholasville, KY 40340-0990

Carol Wright
President & CEO
Jackson Energy Cooperative Corporation
115 Jackson Energy Lane
McKee, KY 40447

Patrick Woods
East Kentucky Power Cooperative, Inc.
P.O. Box 707
4775 Lexington Road
Winchester, KY 40392-0707



*Counsel for Farmers Rural Electric
Cooperative Corporation and Owen Electric
Cooperative, Inc.*