

# Goss ■ Samford PLLC



Attorneys at Law

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

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APR 09 2015

PUBLIC SERVICE  
COMMISSION

April 9, 2015

***Via Hand-Delivery***

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

Re: In the Matter of: An Application of East Kentucky Power Cooperative, Inc. for an Order Declaring the Glasgow Landfill Gas to Energy Project to be an Ordinary Extension of Existing Systems in the Usual Course of Business and a Joint Application of Farmers Rural Electric Cooperative Corporation and East Kentucky Power Cooperative, Inc. for Approval to Enter Into a Ten Year Purchased Power Agreement and Approval of a Special Contract, PSC Case No. 2014-00292

Dear Mr. Derouen:

Enclosed please find for filing with the Commission in the above-referenced case an original and ten (10) copies of East Kentucky Power Cooperative, Inc. and Farmers Rural Electric Cooperative Corporation's Petition for Rehearing. 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\2684 - PPA for Renewable Energy\  
Correspondence\Ltr. to Jeff Derouen - 150409

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APR 09 2015

PUBLIC SERVICE  
COMMISSION

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF:**

**AN APPLICATION OF EAST KENTUCKY POWER )  
COOPERATIVE INC. FOR AN ORDER DECLARING )  
THE GLASGOW LANDFILL GAS TO ENERGY PROJECT )  
TO BE AN ORDINARY EXTENSION OF EXISTING )  
SYSTEMS IN THE USUAL COURSE OF BUSINESS AND )  
A JOINT APPLICATION OF FARMERS RURAL )  
ELECTRIC COOPERATIVE CORPORATION AND EAST )  
KENTUCKY POWER COOPERATIVE, INC. FOR )  
APPROVAL TO ENTER INTO A TEN YEAR PURCHASED )  
POWER AGREEMENT AND APPROVAL OF A SPECIAL )  
CONTRACT )**

**CASE NO.  
2014-00292**

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**PETITION FOR REHEARING**

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Comes now East Kentucky Power Cooperative, Inc. ("EKPC") and Farmers Rural Electric Cooperative Corporation ("Farmers") (collectively, "Joint Applicants"), by and through counsel, pursuant to KRS 278.400 and other applicable law, and for their Petition requesting that the Kentucky Public Service Commission ("Commission") grant rehearing of certain matters determined in the Orders entered herein on March 30, 2015 (collectively, the "Orders"), respectfully state as follows:

1. Each of the Commission's Orders pertains to a Motion for Confidential Treatment filed by Joint Applicants in this case. Specifically, one of the Orders addresses the Motion for Confidential Treatment filed by Joint Applicants in conjunction with their Application (the "First Order"), one of the Orders addresses the Motion for Confidential Treatment filed by Joint Applicants in conjunction with their Responses to Commission Staff's First Request for Information (the "Second Order"), and one of the Orders addresses the Motion for Confidential

Treatment filed by Joint Applicants in conjunction with their Responses to Commission Staff's Second Request for Information (the "Third Order").

2. In the First Order, the Commission determined whether confidential treatment should be afforded to the approximate capital cost of EKPC's proposed LFGTE project; the initial rates and subsequent rate changes relating to the sale of capacity, energy, and environmental attributes; EKPC's cost comparisons with other EKPC LFGTE generation options; annual operation, maintenance and fuel costs; and the base price per mmBtu. Except for EKPC's financial forecast of annual power costs to its Members and its forecasted six-year average cost, the Commission denied Joint Applicants' request for confidential treatment with respect to all other identified items.

3. In the Second Order, the Commission determined whether confidential treatment should be afforded to the off-system resource of all Rural Electric Cooperation Corporation Members served by EKPC under their Wholesale Power Contracts with EKPC; information concerning the cost of capacity, energy and environmental attributes sold to Farmers; billing components relating to the proposed project; and information concerning capital cost per kilowatt for the Glasgow LFGTE Project. The Commission denied Joint Applicants' request for confidential treatment with respect to all identified items.

4. In the Third Order, the Commission determined whether confidential treatment should be afforded to the cost of capacity, operation and maintenance expenses, depreciation expense, cost of energy, the renewable energy credit value and net book value of the asset; information regarding Farmers' cost of energy and EKPC's cost to Members; information regarding the current demand charge for the Glasgow project and the savings per year the avoidance of this cost will generate for Farmers; and an electronic version of Exhibit 6 to the



Application, EKPC's cost comparisons with other EKPC LFGTE generation options. Except for the electronic version of Exhibit 6 to the Application and Farmers' 2015 projection of cost per MWh for power from EKPC as projected in EKPC's 2013 Financial Forecast, the Commission denied Joint Applicants' request for confidential treatment with respect to all other identified items.

5. Joint Applicants have decided not to contest the majority of the Commission's holdings in its Orders; rather, Joint Applicants seek limited rehearing with respect to just one item that has been denied confidential treatment: fuel costs. As further explained below, the fuel cost information associated with the Glasgow LFGTE Project is generally recognized as confidential or proprietary, and maintaining the confidentiality of said information is imperative to protecting Joint Applicants' competitive positions in the marketplace.

6. The fuel cost information for which Joint Applicants request confidential treatment is contained in: (1) Exhibit 6 to Joint Applicants' Application, pages 2-6; (2) Exhibit 9 to Joint Applicants' Application, page 1; (3) Exhibit 13 to Joint Applicants' Application, page 6; (4) Joint Applicants' Response to Commission Staff's First Request for Information, Request No. 15, page 1; (5) Joint Applicants' Response to Commission Staff's First Request for Information, Request No. 17, page 3; (6) Joint Applicants' Response to Commission Staff's Second Request for Information, Request No. 2, pages 2-4. Certain of the foregoing items are plainly fuel costs, while others are directly related to fuel costs (*i.e.*, fuel costs may be derived through simple computations). Because the fuel cost information touches and concerns each of the Motions for Confidential Treatment filed in this matter, Joint Applicants technically seek rehearing of matters determined in each of the Orders.

7. As the Commission is aware, the Kentucky Open Records Act exempts from disclosure certain confidential and proprietary commercial information. *See* KRS 61.878(1)(c). To qualify for this exemption from public disclosure, a party must establish that the subject information is generally recognized and confidential or proprietary and that disclosure of the subject information would permit an unfair advantage to competitors of that party.

8. As stated by the Commission in its Second Order, “fuel cost projections are indicative of the cost to produce power and they provide insight into the prices at which a utility is willing to buy and sell power. Their disclosure could permit an unfair commercial advantage to competitors and they are generally recognized as confidential or proprietary.”<sup>1</sup> However, finding that the fuel associated with the Glasgow LFGTE Project is from a “unique and exclusive source,” the Commission held that Joint Applicants failed to demonstrate how the public disclosure of the fuel cost information would permit an unfair commercial advantage to competitors. Although the Commission accurately characterizes the form of the Joint Applicants’ agreements concerning the purchase of landfill gas and subsequent generation, the Commission’s rulings do not fully recognize the implications of disclosing the fuel costs related to the Glasgow LFGTE Project.

9. Joint Applicants concur with the Commission as to the exclusivity of the fuel source associated with this Project; indeed, EKPC is obligated to purchase all landfill gas produced and delivered to the LFGTE facility by Glasgow (up to the design capacity of the LFGTE facility), and Farmers is obligated to purchase the entire output of the LFGTE facility from EKPC. However, this Project does not exist, and should not be viewed, in total isolation from other alternative energy endeavors. Particularly with respect to EKPC, the Project is not so

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<sup>1</sup> Second Order, at 5 (*citing* Case No. 2014-00166, *2014 Integrated Resource Plan of Big Rivers Electric Corporation* (Ky. PSC Aug. 26, 2014) at 16 and 16).

unique as to render inconsequential the relevant fuel cost information to other existing and future business pursuits. At present, EKPC is party to numerous LFGTE contracts and is actively negotiating with at least one other alternative fuel provider. EKPC also regularly evaluates and negotiates possible future arrangements with landfills and other fuel resources for various alternative energy projects. If the price EKPC pays for fuel from Glasgow is made public, there is no doubt that EKPC's competitive position would be irreparably harmed. Should parties with which EKPC intends to contract for landfill gas (or another alternative fuel source) be made aware of the price EKPC pays with respect to the Glasgow LFGTE Project, EKPC would have a distinct disadvantage in both existing and contemplated negotiations and may be unable to effectively secure appropriate, economic pricing for fuel. This disadvantage would unfairly inure to the benefit of EKPC's competitors and to the detriment of EKPC and its Member-Owners.

10. Similarly, Farmers has a vested interest in keeping confidential the fuel costs associated with the Glasgow LFGTE Project. Although not currently anticipated, Farmers may wish to pursue other alternative energy projects in the future with a different fuel supplier; if other energy providers are privy to the fuel costs Farmers pays with respect to the Glasgow LFGTE Project, Farmers' ability to negotiate and its competitive position are weakened. Likewise, other distribution cooperatives in the EKPC system could be negatively impacted with respect to their own alternative-energy pursuits if a fuel cost benchmark is established as a result of the public proliferation of the costs at issue in this matter.

11. As aforementioned, Joint Applicants do not herein challenge any other determination by the Commission concerning the confidentiality of information related to this case. Consequently, Farmers' ratepayers and the general public will have access to extensive

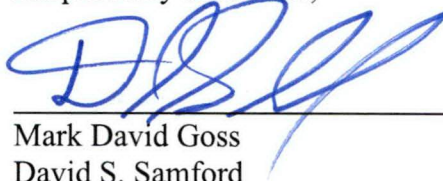


information about the costs related to the Project (including total investment costs and capacity charges), and each stakeholder will be reasonably well-informed of the “financial consequences of [Farmers’] decision”<sup>2</sup> to pursue the Glasgow LFGTE Project. Joint Applicants’ request in this Petition is limited and reflects both common Commission practice and the need to avoid significant competitive injury. For the reasons heretofore described, classifying as confidential the fuel cost information is appropriate, consistent with law, and in the best interests of Joint Applicants and their respective Members.

WHEREFORE, on the basis of the foregoing, Joint Applicants respectfully request that the Commission enter an Order granting this Petition for Rehearing and determining that the fuel cost information related to the Glasgow LFGTE Project be afforded confidential treatment for a period of at least ten (10) years as originally requested.

This 9<sup>th</sup> day of April, 2015.

Respectfully submitted,



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Mark David Goss  
David S. Samford  
L. Allyson Honaker  
GOSS SAMFORD, PLLC  
2365 Harrodsburg Road, Suite B325  
Lexington, KY 40504  
(859) 368-7740  
*mdgoss@gosssamfordlaw.com*  
*david@gosssamfordlaw.com*  
*allyson@gosssamfordlaw.com*

*Counsel for East Kentucky Power Cooperative, Inc.  
and Farmers Rural Electric Cooperative Corp.*

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<sup>2</sup> First Order, at 4.