

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY )  
POWER COOPERATIVE, INC. FOR AN )  
ORDER DECLARING LANDFILL GAS TO )  
ENERGY PROJECTS TO BE ORDINARY ) CASE NO. 2002-00352  
EXTENSIONS OF EXISTING SYSTEMS )  
IN THE USUAL COURSE OF BUSINESS )

O R D E R

On September 25, 2002, East Kentucky Power Cooperative, Inc. ( East Kentucky ) filed an application requesting the Commission to issue an Order declaring that no Certificate of Public Convenience and Necessity is necessary under KRS 278.020(1) for the construction of electric generating facilities having a total output of less than 10 megawatts and fueled by landfill methane gas. More specifically, East Kentucky is planning to construct a 3.2-megawatt generating facility in Boone County, Kentucky. The project will be located at the Bavarian Landfill and is estimated to cost approximately \$4.7 million. East Kentucky has also identified two other landfill sites where it intends to construct similar generating facilities and is reviewing other sites to determine their feasibility.

East Kentucky states that the Bavarian Landfill project, and similar projects that it hopes to develop in the future, will provide small, but reliable and economic, quantities of electric energy produced from renewable resources. Since the methane gas is continuously produced but cannot be economically stored, the generating units will

operate 24 hours a day, 7 days a week. These projects will not require capital investments sufficient to materially affect East Kentucky's financial condition or require an increase in its wholesale power rates. The facilities will not compete or conflict with the existing certificates or services of any other jurisdictional utilities in the area. Therefore, these facilities will not represent wasteful duplication of plant, equipment, property, or facilities. East Kentucky has entered into a 20-year contract to purchase the landfill gas at a price that is significantly less than its current cost of coal for fueling its existing base-load generation. The contract provides for annual adjustments in the price of methane gas based on changes in the Consumers Price Index, All Urban. East Kentucky has also entered into a 20-year site lease for a parcel of land sufficient to install, operate, and maintain the generating units and associated equipment.

Earlier this year the Kentucky General Assembly repealed the requirement under KRS 278.025 that a utility receive a Certificate of Environmental Compatibility from the Commission prior to constructing new generation. In its place, the Legislature enacted KRS 278.216, which requires a utility to obtain a Site Compatibility Certificate prior to constructing new generation. However, that statute applies only to generation that is capable of generating in aggregate more than ten megawatts. KRS 278.216(1). Thus, no site review is required for East Kentucky's Bavarian Landfill project.

East Kentucky projects that the total cost for electricity to be generated at the Bavarian Landfill project will be approximately \$.035 per Kwh and the project may be potentially eligible for certain federal renewable energy incentive payments, which would further reduce the cost of power. Depending upon the final cost for this power,

East Kentucky will determine whether it should be sold under its existing green power tariff or included with its conventional generation.

East Kentucky has responded to the Commission Staff's request for information, and an informal conference was held at the Commission's offices on December 10, 2002. East Kentucky has requested expedited treatment of its application because the federal renewable incentive payments are available only for projects that are operational by September 2003.

Based on the application and being otherwise sufficiently advised, the Commission finds that the project appears to be feasible based upon the analysis submitted by East Kentucky. However, the Commission notes that this is the first landfill gas generating project that has been proposed by a regulated utility, and the Commission has no prior experience with similar projects. East Kentucky's last Integrated Resource Plan did not include landfill gas generating projects as part of its analysis of future supply resources.

Based on the cost and size of the Bavarian Landfill project, the Commission finds that no Certificate of Public Convenience and Necessity is required for this particular project. However, since each landfill gas generating project is unique, the Commission further finds that it would be inappropriate to issue a blanket declaration ruling that any such project is exempt from the certificate requirements of KRS 278.020(1). Prior to constructing any additional landfill gas generating projects, East Kentucky should file an application for either a Declaratory Order or a Certificate of Public Convenience and Necessity. The Commission cautions East Kentucky that absent the extensive investigation conducted during the review of an application for a certificate to construct,

the reasonableness of the landfill gas generating project and the availability of alternative supply options will be subject to analysis and review in future rate proceedings.

IT IS THEREFORE ORDERED that East Kentucky's construction of a 3.2-megawatt landfill gas generating facility at the Bavarian Landfill is exempt from the requirements of a Certificate of Public Convenience and Necessity pursuant to KRS 278.020(1).

Done at Frankfort, Kentucky, this 18<sup>th</sup> day of December, 2002.

By the Commission

ATTEST:

  
Executive Director