

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR AN)
ORDER DECLARING THE MAYSVILLE-)
MASON COUNTY LANDFILL GAS TO) CASE NO. 2007-00509
ENERGY PROJECT TO BE AN ORDINARY)
EXTENSION OF EXISTING SYSTEMS IN)
THE USUAL COURSE OF BUSINESS)

O R D E R

On December 12, 2007, East Kentucky Power Cooperative, Inc. (“EKPC”) filed an application requesting the Commission to declare that EKPC’s Maysville-Mason County Landfill Gas To Energy (“LFGTE”) project is an ordinary extension of existing electric systems in the usual course of business and that a Certificate of Public Convenience and Necessity (“CPCN”) will not be required to construct the proposed facility. On four prior occasions, the Commission granted similar declarations, finding that relatively small-sized LFGTE projects are exempt from the requirements for the CPCN under KRS 278.020(1).¹

¹ Case No. 2002-00352, Application of East Kentucky Power Cooperative, Inc. For an Order Declaring Landfill Gas to Energy Projects to be Ordinary Extensions of Existing Systems in the Usual Course of Business (Order dated December 18, 2002); Case No. 2002-00474, Application of East Kentucky Power Cooperative, Inc. For an Order Declaring the Green Valley and Laurel Ridge Landfill Gas to Energy Projects to be Ordinary Extensions of Existing Systems in the Usual Course of Business (Order dated March 3, 2003); Case No. 2005-00164, Application of East Kentucky Power Cooperative, Inc. For an Order Declaring the Hardin County Landfill Gas to Energy Projects to be Ordinary Extensions of Existing Systems in the Usual Course of Business (Order dated July 8, 2005); Case No. 2006-00033, Application of East Kentucky Power Cooperative, Inc. For an Order Declaring the Pendleton County Landfill Gas to Energy Project to be an Ordinary Extension of Existing Systems in the Usual Course of Business (Order dated March 10, 2006).

EKPC plans to construct a 1.6 MW LFGTE facility to be located near Maysville, Kentucky in Mason County. EKPC has submitted a proposal with an initial 20-year term to the owner of the landfill, Mason County,² to purchase landfill gas at a price that is currently less than EKPC's cost of coal. EKPC states that the project will provide small, but reliable and economic, quantities of electric energy, that are generated by renewable resources. The energy will be sold to EKPC's member systems for service to their member consumers.

On January 19, 2008, Commission Staff served a data request on EKPC for additional information about projected costs and availability factors. EKPC filed its responses on February 6, 2008. On February 29, 2008, Commission Staff served a supplemental data request on EKPC concerning financing for the project. EKPC filed its responses on March 10, 2008.

KRS 278.020 requires a utility to obtain a CPCN prior to constructing any new facility that is intended to furnish regulated utility services to the public. However, this statute also provides an exemption from the certificate requirement if the new facility is an ordinary extension of existing systems in the usual course of business. Commission regulation 807 KAR 5:001, Section 9(3), defines that exemption as follows:

Extensions in the ordinary course of business. No certificate of public convenience and necessity will be required for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general area in which the utility renders service or contiguous thereto, and that do not involve sufficient capital outlay to materially affect the existing financial condition of

² The landfill is also owned by the city of Maysville and is managed by Mason County.

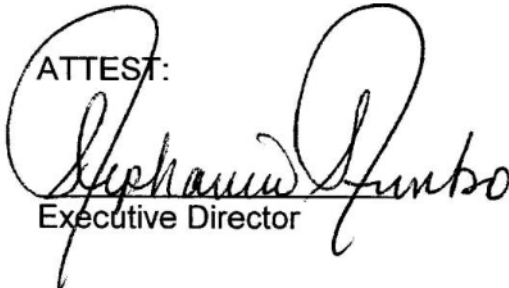
the utility involved, or will not result in increased charges to its customers.

Based on the application and the responses to the data requests, and being otherwise sufficiently advised, the Commission finds that the Maysville-Mason County LFGTE project satisfies the criteria set forth in 807 KAR 5:001, Section 9(3), to be classified as an ordinary extension in the usual course of business. With an investment requirement of approximately \$2.5 million, the cost to construct and operate the facility will not materially affect EKPC's financial condition or result in an increase in EKPC's wholesale power rates. In addition, the facility will not conflict with the existing certificates or service of other utilities under the Commission's jurisdiction. Therefore, the project will not create wasteful duplication of plant, equipment, property, or facilities.

IT IS THEREFORE ORDERED that the Maysville-Mason County LFGTE project is properly classified as an ordinary extension of existing systems in the usual course of business, and a CPCN, pursuant to KRS 278.020(1), is not required for its construction.

Done at Frankfort, Kentucky, this 26th day of March, 2008.

By the Commission

ATTEST:

Executive Director