

NewGen NEWS

Issue 4, March 2016



Feature Article: Creation of a Joint Action Agency



What is so special about a Municipal Joint Action Agency?

A Joint Action Agency (JAA) is a group of municipal utilities banding together to reach a common goal. By and large, municipal JAAs have been formed to benefit from economies of scale in planning for and obtaining power supply. The first JAA was established in 1935, but due to the fear of lost autonomy and potential acquisition JAAs did not really take off as a concept until the 1960s. By then the public power industry realized that individually they were no match against investor-owned utilities (IOU) when it came to power supply; however, by joining together, they were able to achieve the necessary scale. During the 1970s and 1980s, over 50 JAAs were formed by municipalities having “a firm determination to have control over their fate; to develop their own power supply; to stand as a strong, independent force in the electric industry; and to bring more benefits to their communities.” ⁽¹⁾

NewGen staff has spent decades supporting municipal utilities and JAAs. Over the years, we have provided strategic evaluations of power supply arrangements, potential alternatives, and the development of a preferred future strategy. Our efforts have included corporate strategic direction, financial and rate planning, power supply planning, evaluation of existing wholesale power contracts and rates, assisting in power contract negotiations, and review of Open Access Transmission Tariffs (OATT). In Kentucky, NewGen staff assisted in the development of two new JAAs – one in 2004, the Kentucky Municipal Power Agency (KMPA), and, another in 2015, the Kentucky Municipal Energy Agency (KyMEA).

Launch of a New Energy Agency

The formation of KyMEA stemmed from the desire of a group of Kentucky public power utilities to come together to provide lower cost electricity to its customers. This group of municipalities purchased power from a regional IOU for decades but, based on rising costs and

unfavorable contract terms, they decided to explore alternatives.

The process started with a strategic power supply planning assessment, which included:

- Providing assistance related to wholesale power rates, power supply contracts, and transmission service arrangements.
- Conducting an initial assessment of the group's energy competitiveness, costs, and risks.
- Supporting the survey of prospective suppliers to assess the possibility to obtain more favorable power supply arrangements.
- Assisting utility management teams and boards in the development of a long-term power supply and delivery strategy. This broad-reaching scope of work included the evaluation of legacy power supply arrangements and selecting a preferred future strategy for generation supply, transmission service arrangements, and interconnection facilities.
- Examination of organizational and governance alternatives and probable economic and operational benefits.

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In 2014, after identifying a preferred power supply strategy, the group decided to give the IOU notice to terminate their power supply contracts effective 2019. NewGen, along with a team of advisors and legal support, then facilitated the creation of KyMEA by assisting with the establishment of a new municipal agency, development of agency bylaws, and creation of member participation agreements. Now fully formed, KyMEA provides a framework for its 10 members to consolidate market power in executing purchased power agreements, obtaining power generation facilities, obtaining transmission service arrangements, and financing asset development, if needed. KyMEA is currently in the process of developing a preferred generation resource portfolio, developing and executing agreements regarding generation resources, and proceeding with obtaining transmission service. Implementation of KyMEA's power supply program will be online in May 2019.

(1) LaBella, Jeanne, *The Evolution of Joint Action*, Public Power (Vol. 72, No. 1)

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Clean Power Plan implementation rests in the hands of the next Supreme Court nominee and Presidential election

After losing their initial plea for a stay on the Clean Power Plan (CPP) in January at the D.C. Circuit Court of Appeals, 29 states brought the challenge to the Supreme Court. On February 9th, the Supreme Court granted a stay of the CPP. In an unusual move, the Supreme Court delayed implementation of the CPP while the D.C. Circuit Court of Appeals performs an expedited review of the arguments, set for June 2, 2016. The outcome of that ruling at the appellate court is also likely to be appealed and then finally head back to the Supreme Court in 2017. Adding uncertainty to the outcome of the 5-4 vote of the Court was Justice Antonin Scalia's subsequent and unexpected death. As Justice Scalia was 1 of the 5 judges siding with the stay, this places further importance on the naming of the next Supreme Court Justice. The first milestones of the CPP were to arrive this September with states filing their initial plans to the Environmental Protection Agency (EPA), with possible extensions until 2018. 29 states were arguing in favor of the stay, while 18 states opposed the stay.

EPA will move forward with MATS

On March 3rd, Supreme Court Chief Justice John Roberts refused to let a challenge of the EPA's Mercury and Air Toxic Standards (MATS) regulations go forward within the Supreme Court. In contrast to the stay granted on the CPP, seen as a win for the coal industry and

power plants, this will allow MATS to continue and likely lead to environmental upgrades at many coal plants. The decision originally stems from the Supreme Court decision in mid-2015 to remand MATS and the related EPA cost/benefit analysis to a D.C. Circuit Court of Appeals, and the D.C. Court's decision to allow the rule to move forward in December 2015. As the EPA has modified its cost/benefit analysis, Chief Justice Roberts rejected the application from 20 states to block the EPA's implementation of MATS. While the rule will lead to compliance costs at some plants, many utilities and coal power plants have already made upgrades to be in compliance with MATS. The EPA estimated the rule would require \$9.6 Billion annually to bring the remaining plants into compliance as compared to approximately \$350 Billion in annual utility revenues. The EPA estimated direct health benefits at \$4 to \$6 Million per year with the potential of \$90 Million in broader ancillary benefits from reduced pollutants.

Energy Project Highlight

Appraisal of Comanche Peak Nuclear Generating Station

Greer, Herz and Adams, LLP/Somervell CAD

NewGen was retained by Greer, Herz and Adams, LLP (GHA) on behalf of Somervell County Appraisal District (SCAD) to complete an appraisal of the Comanche Peak Nuclear Generating Station (Comanche Peak) for Ad Valorem tax purposes in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Texas Property Tax Code. In addition to the appraisal, NewGen staff provided expert witness testimony before the 18th District Court Judge John Neill at the Somervell County Court House.

NewGen completed the appraisal utilizing the three generally accepted valuation approaches - cost, income, and market - to determine the Fair Market

Energy Project Highlight cont.

Value (FMV) of Comanche Peak. NewGen's opinion to the FMV of Comanche Peak was based on information provided by GHA, other information generally available to NewGen, and studies and analyses undertaken by NewGen.

Comanche Peak is a two unit, pressurized water reactor plant located on a peninsula on Squaw Valley Reservoir in Somervell County, Texas near Glen Rose, Texas.



Water, Wastewater, and Stormwater Insights

Flint, Michigan water crisis represents opportunity for stakeholder education

Utilities will likely see an increase in customer inquiries regarding water quality and safety after the extensive media coverage of on-going water quality issues in Flint, Michigan. While the situation in Flint is unique, it does provide an opportunity for utilities to educate consumers on the annual Consumer Confidence Report and actions the utility takes to ensure the safety of potable drinking water. Further, it represents an opportunity to explain to stakeholders the financial needs of the water utility and why adjusting rates to provide for those needs is critically important. Finally, it should remind us all of the immeasurable value of clean, safe drinking water.

Significant wastewater investment needed

Based on a recent survey, the EPA has concluded that \$271 billion in investment is needed over the next five years to maintain and improve the nation's wastewater systems. This survey is just one of many recently released, which continues to emphasize the degradation of the nation's water and wastewater infrastructure and the challenge utilities will face in making this investment while maintaining affordable service to customers.

Budget agreement leads to decreased investment

While the EPA is indicating a greater level of investment is needed, the recent omnibus spending bill passed by the U.S. Government reduced state revolving loan funds (SRFs) for the remainder of 2016. Drinking water funds were reduced by \$44 million and clean water funds were reduced by \$6 million.

Total Coliform Rule compliance

Utility systems currently have until April 2016 to fully comply with the Revised Total Coliform Rule as originally published in the Federal Register in February 2013. Utilities are encouraged to check with their local regulatory agency to ensure they understand the

new requirements and can comply by the pending deadline.

TCEQ fee increase

The Texas Commission on Environmental Quality (TCEQ) is currently considering increases to the regulatory fees it charges to public water systems to cover a projected \$1 million funding shortfall in 2017. While these increases are only proposed and not fully adopted at this time, utilities should follow the proposed rulemaking and the potential impacts it may have on the utilities' future cost of service.

Water, Wastewater, and Stormwater Project Highlight

Water and Wastewater Financial Forecasting Model City of Biloxi, Mississippi

Recently, NewGen was retained by the City of Biloxi, Mississippi (Biloxi) to develop a financial planning and budgeting tool. One of the challenges facing utilities today is developing a tool that is dynamic and sophisticated enough to handle the volume of detailed data available for analysis. NewGen's process for the development of such tools includes:

- Facilitated workshops with stakeholders to identify the critical inputs and desired outputs of the planning and budgeting tool;
- Development of dynamic modelling processes that provides instantaneous scenario development and comparison;
- Development of key performance indicator (KPI) dashboards; and
- Development of standard reports based on client specific templates.

NewGen uses the enhanced data capabilities of recent Microsoft Excel (Excel) add-ins such as PowerPivot to allow our clients to import and analyze data files that are much larger than previously possible in Excel while retaining its flexibility and analytical strengths. Additionally, NewGen's process utilizes basic programming language to increase the power and impact of our models. As a result of the project, Biloxi now has a financial planning and budgeting tool that can truly be integrated into the everyday financial planning of the utility. The tool instantaneously and clearly conveys the KPI and customer impacts to all stakeholders and allows Biloxi to dynamically create, retain, and compare multiple scenario results all within a single worksheet, allowing the finance team to instantaneously demonstrate the impact of those scenarios on KPI's to all stakeholders and team members.



Solid Waste and Recycling Insights

Tax credit extension may mean more CNG solid waste and recycling vehicles on the road

The waste and recycling industry may start purchasing more compressed natural gas (CNG) trucks now that federal tax credit initiatives for alternative fuels have been officially extended by Congress and signed into law by President Obama on December 18th. With the signing of the Protecting Americans from Tax Hikes Act (PATH), the extension of tax credits means that in all likelihood more CNG vehicles will be purchased by solid waste and recycling fleets. The bill was strongly supported by both the National Waste & Recycling Association (NWRA) and the Solid Waste Association of North America (SWANA).

Pennsylvania Supreme Court rules in favor of biosolids recycling by farmers

The Pennsylvania Supreme Court has ruled that biosolids recycling and application is protected by the state Right to Farm Act (RTFA), while stating that only a judge could decide on the act, not a jury as a lower court had ruled. The suit centered on farming operations in Pennsylvania's York County. Neighboring landowners had complained about odors coming from farmers' use of biosolids, and filed a lawsuit against the farmers and the municipal biosolids contractor in 2008 alleging that the biosolids constituted a nuisance and trespass. After years of litigation, the Supreme Court agreed to hear the case in October 2015 and recently ruled for the continuation of biosolids application as a normal agricultural operation. *(NewGen would note, that there were a number of legal and procedural issues associated with this litigation, and if interested, the reader should do additional research on this topic.)*

2014 Texas Scrap Tire Annual Report now available

The TCEQ has issued its first ever Scrap Tire Report. The report is currently in the process of being posted to the TCEQ website. It is a brief, but informative report on the current state of the scrap tire market in the State of Texas. As mentioned in the report, approximately 26 million tires were generated in 2014 in Texas (typically one tire per person, per year is what is assumed, and borne out by the numbers over the past 15 years). Of that amount approximately 50% are used as tire derived fuel (tdf), with a large percentage of that amount used by cement kilns (other users of tdf, to a lesser extent, include steel mills, paper mills, and electric utilities).

The next largest end-use is crumb rubber at 22% of the tires generated. Ongoing challenges in Texas include obtaining the necessary funding to clean up illegal stockpiles, expanding and developing new markets for scrap tires, and combating the illegal dumping of old scrap tires.

Solid Waste and Recycling Project Highlight

Beneficial Re-use of Generated Bio-solids Market Analysis

Trinity River Authority

NewGen has recently been retained by the Trinity River Authority (TRA) to conduct a market analysis to determine the potential market opportunities for the beneficial re-use of bio-solids generated by TRA's five wastewater treatment plants located throughout the Dallas/Fort Worth Metroplex. TRA generates on average approximately 130 to 150 tons of bio-solids per day (or approximately 50,000 tons per year) that are currently hauled by a private vendor for disposal at local landfills. TRA has retained NewGen to determine if there is an alternative to landfilling the bio-solids. As part of NewGen's analysis we will be meeting with local composting operators as well as identifying alternative options (fertilizer pelletization, etc.) that could be available with regard to these materials. NewGen will meet with local composting operators – private and public sector. As part of the market analysis, NewGen will evaluate the availability of market capacity to accept this material for beneficial re-use, as well as the hauling cost implications concerning cost effectiveness.

As part of the study, NewGen will also identify hauling companies that may be interested in proposing on the future hauling contract. The current contract expires in November 2016.



Recent Hires

Michael Sommerdorf, Analyst

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Michael joined NewGen in the Dallas, Texas office in January 2016. He is a recent graduate of St. Edward's University with a degree in Accounting, and he is beginning his Masters of Science in Business Analytics studies at the University of Dallas.



Conferences and Seminars

Colorado Rural Electric Association 2016 Annual Membership Meeting - February 29, 2016

Joe Mancinelli participated in a discussion panel titled *A Conversation on Net Metering* at the 2016 Colorado Rural Electric Association (CREA) Annual Membership Meeting. CREA is a trade association that represents Colorado's 22 distribution systems and Tri-State Generation and Transmission. The four selected panelists participated in a two-hour town hall type discussion with approximately 150 directors and managers representing electric cooperatives from across Colorado.

North Central Texas Council of Governments New and Emerging City Managers Roundtable/ New and Emerging Finance Directors Roundtable - March 2016

Chris Ekrut and Matthew Garrett will be assisting as instructors in the March 2016 sessions of the NCTCOG New and Emerging City Managers and Finance Directors Roundtable sessions. These sessions will provide an overview of the management of municipal water and wastewater systems for City staff members in management roles. Matthew will be speaking on revenue requirement determination and ratemaking, while Chris will be speaking on issues associated with wholesale water and wastewater agreements and providing an update and overview on water and wastewater regulation in Texas.

Texas Water 2016 - April 19-22, 2016

Chris Ekrut will be presenting at Texas Water 2016 to be held in Ft. Worth, April 19th-22nd. Chris' presentation will focus on the importance of established financial policies for utilities and the impact such policies can potentially have on a utility's credit rating and, ultimately, long-term borrowing cost.

American Public Power Association National Conference - June 10-15, 2016

NewGen is a Platinum sponsor of the American Public Power Association (APPA) National conference being held in Phoenix, Arizona. This conference is the largest public power annual meeting, with a variety of attendees including industry suppliers, CEOs, senior executives, and policy makers.



Employee Announcements

Congratulations to Laurie Tomczyk - Newest Firm Member!

NewGen is very pleased to announce that Laurie Tomczyk will become an Owner and Member of the Firm. Laurie is well-known both internally across the Firm and within the broader marketplace as a top-flight analyst. Her work quality is impeccable, which speaks to her attention to detail and ability to handle complex analytical assignments while not losing sight of the larger goals and objectives. She is an expert in the areas of cost of service and rate design and has growing experience with litigation. Laurie brings a significant amount of sole source work to the firm due to her quality work product and excellent customer service. She has several long-term client relationships including BC Hydro, Homer Electric, Kauai Island Utility Cooperative, and Golden Valley Electric Association. In addition to her technical expertise and success with clients, she is an excellent project manager, team member, and communicator. She mentors and trains others and provides strong leadership, integrity, and a long term commitment to the Firm's future success.

Congratulations to Laurie!