

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER)	
COOPERATIVE, INC. FOR APPROVAL OF THE)	
ACQUISITION OF EXISTING COMBUSTION)	
TURBINE FACILITIES FROM BLUEGRASS)	CASE NO.
GENERATION COMPANY, LLC AT THE)	2015-00267
BLUEGRASS GENERATING STATION IN)	
LAGRANGE, OLDHAM COUNTY, KENTUCKY)	
AND FOR APPROVAL OF THE ASSUMPTION)	
OF CERTAIN EVIDENCES OF INDEBTEDNESS)	

ORDER

On September 1, 2015, East Kentucky Power Cooperative, Inc. ("EKPC") moved for permission to withdraw and replace a document submitted to the Commission as part of this proceeding, and also moved pursuant to 807 KAR 5:001, Section 13, for confidential treatment of a portion of said document. Specifically, EKPC seeks to withdraw and replace an un-redacted copy of a document it submitted in response to Commission Staff's First Request for Information to EKPC, Item 10.a., which EKPC describes as the Operations and Maintenance Agreement for the Bluegrass Facility between Bluegrass Generation Company, LLC ("Bluegrass") and NAES Corporation, dated October 1, 2012 (the "O&M Agreement").¹ EKPC did not file the O&M Agreement under seal or request confidential treatment for it, but now seeks confidential treatment for a period of ten years for a portion of said document. KRS 61.878(1)(c) exempts from public disclosure confidential information "which if openly disclosed would permit

¹ As part of the proposed acquisition that is the subject of EKPC's application in this case, Bluegrass has agreed to assign its interest in and to the O&M Agreement to EKPC.

an unfair commercial advantage to competitors of the entity that disclosed the records.” EKPC states that the O&M Agreement includes detailed, proprietary information related to pricing and terms that, if publicly disclosed, would permit an unfair commercial advantage to market participants offering or purchasing similar services. EKPC further states that the information for which it seeks confidential treatment consists of proprietary information that is retained by EKPC on a “need-to-know” basis; is distributed within EKPC only to those employees who must have access for business reasons; and is generally recognized as confidential and proprietary in the energy industry.

Having carefully considered the Motion to Withdraw and Replace Document, the Supplemental Motion for Confidential Treatment, and the materials at issue, the Commission finds that:

1. The information in the O&M Agreement for which EKPC seeks confidential treatment constitutes confidential information that includes detailed proprietary information concerning pricing and other terms of the contract for the operation and maintenance of the Bluegrass Generating Station.

2. The disclosure of the confidential information in the O&M Agreement would have a reasonable likelihood of permitting an unfair commercial advantage to market participants offering or purchasing services similar to those covered by the O&M Agreement.

3. EKPC has met its burden to establish that the confidential information in the O&M Agreement is exempted from public disclosure pursuant to KRS 61.878(1)(c) and 807 KAR 5:001, Section 13.

4. The confidential information contained in the O&M Agreement should not be placed in the public record for a period of ten years, or until further Order of this Commission.

IT IS THEREFORE ORDERED that:

1. EKPC's Motion to Withdraw and Replace Document is granted.

2. EKPC's Supplemental Motion for Confidential Treatment of a portion of the O&M Agreement, submitted in response to Commission Staff's First Request for Information to EKPC, Item 10.a., is granted.

3. The materials granted confidential protection shall not be placed in the public record or made available for public inspection for a period of ten years, or until further Order of this Commission.

4. Use of the materials in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

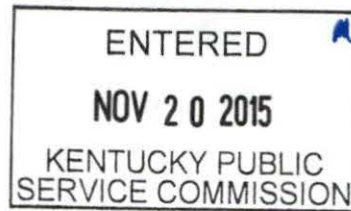
5. EKPC shall inform the Commission if the materials granted confidential protection become publicly available or no longer qualifies for confidential treatment.

6. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, EKPC shall have 20 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If EKPC is unable


to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

7. The Commission shall not make the materials available for inspection for 20 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow EKPC to seek a remedy afforded by law.

By the Commission



ATTEST:



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