

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF EAST)	
KENTUCKY POWER COOPERATIVE, INC. OF)	
AN AMENDMENT TO AN INDUSTRIAL POWER)	
AGREEMENT WITH INTERRUPTIBLE)	CASE NO.
SERVICE BETWEEN EAST KENTUCKY)	2020-00317
POWER COOPERATIVE, INC., OWEN)	
ELECTRIC CORPORATION, INC. AND NUCOR)	
STEEL GALLATIN, LLC F/K/A GALLATIN)	
STEEL COMPANY)	

ORDER

The matter is before the Commission upon two motions filed by East Kentucky Power Cooperative, Inc. (EKPC), pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c), requesting that the Commission grant confidential treatment for certain information submitted as part of its tariff filing and discovery response. The first motion, filed on July 14, 2020 (July 2020 Motion), sought confidential treatment for ten years from the date of the filing of the motion for the billing discount terms associated with the Third Amendment to the Industrial Power Agreement with Interruptible Service (Third Amendment) with Nucor Gallatin Steel f/k/a Gallatin Steel Company (Nucor). The second motion, filed on August 7, 2020 (August 2020 Motion), requests that EKPC's response to Commission Staff's Requests for Information dated July 23, 2020, Item 4, be protected from public disclosure for ten years from the date of the filing of the August 2020 Motion.

In support of its motions, EKPC argues that the billing discount provisions of the Third Amendment contain commercially sensitive information that is retained by EKPC

on a “need-to-know” basis, and not publicly available. EKPC asserts that if disclosed, the billing discount information would give potential competitors of EKPC a significant advantage in the course of ongoing and future negotiations to attract and secure new or expanded load in EKPC’s service territory. EKPC avers that disclosure would also give participants in the broader commercial market a material, unfair advantage in relations with EKPC as a result of knowing its special pricing strategies and business-sensitive decisions.

With respect to EKPC’s response to Item 4 of Commission Staff’s Requests for Information dated July 23, 2020, EKPC states that this response contains an Excel spreadsheet that demonstrates the variable costs to serve Nucor’s expanded load and the expected revenue for each year of the contract term. EKPC informs that this analysis includes the proposed bill discounts and projected variable costs, which consists of projections for PJM Interconnection, LLC (PJM) administration charges, PJM capacity charges, PJM Network Integration Transmission Service charges, PJM day-ahead energy charges, and PJM Regional Transmission Expansion Plan charges.

Having considered the motion and the materials at issue, the Commission finds that billing discount provisions and the projected variable costs are generally recognized as confidential or proprietary; therefore, they meet the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. EKPC’s July 2020 Motion and August 2020 for confidential treatment are granted.

2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for ten years or until further Order of this Commission.

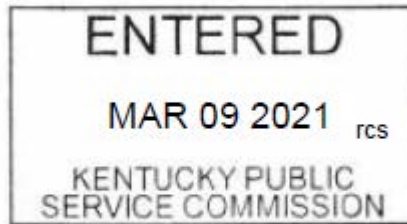
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. EKPC shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, EKPC shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If EKPC is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow EKPC to seek a remedy afforded by law.

By the Commission



ATTEST:


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