

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| APPLICATION OF EAST KENTUCKY POWER |) | |
| COOPERATIVE, INC. TO TRANSFER |) | CASE NO. |
| FUNCTIONAL CONTROL OF CERTAIN |) | 2012-00169 |
| TRANSMISSION FACILITIES TO PJM |) | |
| INTERCONNECTION, LLC |) | |

ORDER

On July 31, 2020, East Kentucky Power Cooperative, Inc. (EKPC) filed an annual report as required by the Commission pursuant to its December 20, 2012 Order. EKPC also filed a cover letter requesting, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1), that the Commission grant confidential protection for five years for redacted portions of the report. On July 30, 2021, EKPC filed its annual report as ordered by the Commission and filed a cover letter requesting that the Commission grant confidential protection for five years for redacted portions of the report on the same basis as in the July 31, 2020 request.

In support of its two requests, EKPC argued that the redacted portions of the reports are exempt from disclosure under KRS 61.878(1)(c)(1) as “[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.” In both annual reports, the redacted material consists of information related to the strategy for and results from EKPC’s energy trading and hedging practices. This included hedging

percentages, trading costs, and net gains. EKPC asserted that given the nature of the traded energy market, it would be materially damaged if its competitors were permitted to have access to internal information reflecting transmission rights awarded, converted, and purchased; its hedging strategies; and actual and projected membership costs and benefits.¹

Having considered the request and the material at issue, the Commission finds that EKPC's requests should be granted. The redacted material consists partly of internal business strategies that are exempt from disclosure.² The cost and benefit figures are also generally recognized as confidential or proprietary, and if disclosed, competitors could use this information to unfairly compete with EKPC in the energy market. The Commission finds that the designated material redacted from EKPC's 2020 and 2021 annual reports are records that meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. EKPC's request for confidential treatment for information redacted from its 2020 and 2021 annual reports is 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 five years or until further Order of this Commission.

¹ See *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995).

² See Case No. 2016-00370, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates and for Certificates of Public Convenience and Necessity* (Ky. PSC Dec. 12, 2018), Order at 3, 5.

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 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, 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 for which confidential treatment was granted 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

ENTERED
JAN 10 2022 rCS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2012-00169

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