

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST	)	
KENTUCKY POWER COOPERATIVE, INC. FOR	)	
APPROVAL TO AMEND ITS ENVIRONMENTAL	)	
COMPLIANCE PLAN AND RECOVER COSTS	)	CASE NO.
PURSUANT TO ITS ENVIRONMENTAL	)	2023-00177
SURCHARGE, AND FOR ISSUANCE OF	)	
CERTIFICATES OF PUBLIC CONVENIENCE AND	)	
NECESSITY AND OTHER RELIEF	)	

ORDER

East Kentucky Power Cooperative, Inc. (EKPC) filed two motions pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period of time for several items provided in response to data requests as more fully discussed below.

AUGUST 29, 2023 MOTION

In support of its motion, EKPC argued that responses provided to Commission Staff's First Request for Information (Staff's First Request), Item 31(c), Item 32, and Item 50(c) should be granted confidential treatment. In response to Item 31(c) and Item 50, EKPC filed performance profiles, analysis, and reports from North American Reliability Corporation (NERC) and Generation Availability Data System (GADS) along with other GADS information. EKPC's response to Staff's First Request, Item 32, is a list of generation outage information. EKPC requested confidential treatment pursuant to KRS 61.878(1)(c)(1).

For Item 31(c) and Item 50(c), EKPC stated that the material contains copyrighted and proprietary information from a third-party. EKPC averred that the GADS information is confidential in nature and subject to copyrights of someone other than EKPC. EKPC argued that this information is only available to paid subscribers and could be harmful to the provider if disclosed. According to EKPC, disclosure of this information could be a breach of EKPC's subscription as well as copyright infringement.

Having considered the motion and the material at issue, the Commission finds that the GADS and NERC information is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1). The Commission finds that the outage information provided in response to Item 32 should be granted confidential treatment pursuant to KRS 61.878(1)(m) as disclosure of outage information would provide information about EKPC system vulnerabilities.

INFORMATION FILED ON AUGUST 30, 2023

EKPC filed a read first letter on August 30, 2023, noting that confidential treatment for EKPC's response to Staff's First Request, Item 15, excerpts from its IRP filings, was granted in Case No. 2022-00098,<sup>1</sup> by Order dated August 7, 2023. EKPC stated it was filing the materials pursuant to the August 7, 2023 Order.

The Commission finds that EKPC complied with 807 KAR 5:001 Section 13(9)(a) and the material should be given confidential treatment.

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<sup>1</sup> Case No. 2022-00098 *Electronic 2022 Integrated Resource Plan of East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 7, 2023), Order.

SEPTEMBER 26, 2023 MOTION

EKPC filed a motion for confidential treatment on Sept. 26, 2023 for EKPC's response to Commission Staff's Second Request for Information (Staff's Second Request), Item 5, Appendix to the Cooper Station Project Scoping Report. EKPC also filed EKPC's response to Staff's First Request, Item 32, again. The motion only addressed the filing with regard to Item 5 as Item 32 was addressed in the August 29, 2023 motion. EKPC argued that disclosure of the breakdown of costs would permit an unfair commercial advantage to third parties who may bid on a request for proposal if one is issued by EKPC or present an unnecessary and unreasonable infringement upon EKPC's legitimate privacy concerns.

Having considered the motion and the material at issue, the Commission finds that the information in provided in response to Staff' Second Request, Item 5 is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1). These are projected expenses and a contractor may be able to manipulate the information to its advantage when bidding on this project and as a result, EKPC would be at a commercial disadvantage.

IT IS THEREFORE ORDERED that:

1. EKPC's motions 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 an indefinite period or until further Order of this Commission.

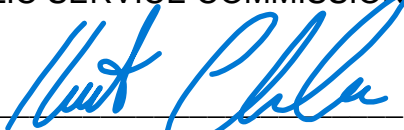
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

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.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

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