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Attorneys at Law

Mark David Goss
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November 12, 2013

VIA HAND DELIVERY

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602

RE: Case No. 2013-00259

Dear Mr. Derouen:

Enclosed for filing, please find one original and ten copies of East Kentucky Power Cooperative, Inc. ("EKPC") responses to Commission Staff's Second Request for Information dated October 30, 2013 in the above referenced case. Also enclosed is an original and ten copies of EKPC's Petition for Confidential Treatment of Information ("Petition") regarding the response to Request 1b. One unredacted copy of the designated confidential portion of the response to Request 1b, which is the subject of the Petition, is enclosed in a sealed envelope.

If you have any questions or require additional information, please contact me.

Very truly yours,

Mark David Goss

Enclosures

cc: Hon. Michael L. Kurtz
Hon. Joe Childers
Hon. Kristin Henry
Hon. Shannon Fisk

RECEIVED
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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

AN APPLICATION OF EAST KENTUCKY)	
POWER COOPERATIVE, INC. FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY FOR ALTERATION OF)	PSC CASE NO. 2013-00259
CERTAIN EQUIPMENT AT THE COOPER)	
STATION AND APPROVAL OF A COMPLIANCE)	
PLAN AMENDMENT FOR ENVIRONMENTAL)	
SURCHARGE COST RECOVERY)	

MOTION FOR CONFIDENTIAL TREATMENT

Comes now East Kentucky Power Cooperative, Inc. (“EKPC”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to a portion of a response to the Commission’s second request for information in the above-captioned proceeding, respectfully states as follows:

1. EKPC’s Application requests the Commission to issue a Certificate of Public Convenience and Necessity (“CPCN”), pursuant to KRS 278.020(1), for an environmental compliance project that involves re-routing the existing duct work for EKPC’s Cooper Station Unit #1 (“Cooper #1”) such that its emissions are able to flow to the Cooper Station Unit #2 Air Quality Control System (“Cooper #2 AQCS”) (the “Project”). For a capital investment of approximately \$15 million, EKPC will be able to retain 116 MW of existing capacity, thereby reducing its need to procure new capacity from other sources. The Application also requests that

the Commission authorize EKPC to amend its Environmental Compliance Plan, pursuant to KRS 278.183, so that EKPC may recover the costs associated with the Project through its existing environmental surcharge mechanism.

2. On October 4, 2013, the Commission issued data requests to EKPC. EKPC tendered a response on October 18, 2013. A portion of EKPC's response involved information which was commercially sensitive and proprietary. Accordingly, EKPC filed that information under seal and contemporaneously filed a motion for confidential treatment. On October 30, 2013, the Commission issued its second request for information to EKPC. One of the requests concerns information which was originally provided by EKPC on October 18, 2013 under seal and on a confidential basis. In particular, the Commission has now requested a clarification as to the revised numbers for the seven projects included on EKPC's Short list based upon further discussions with various bidders. *See* Commission Second Request for Information, Request No. 1(b). Contemporaneous with the filing of this Motion, EKPC is tendering information responsive to this request.

3. The response to the foregoing request again contains information that identifies the specific bidders submitting each bid received in the RFP along with the revised net present value of the various Short List bids. The above-described information (the "Confidential Information") that is included in EKPC's responses to the foregoing data requests is proprietary and commercially sensitive information that is retained by EKPC on a "need-to-know" basis and that is not publicly available. If disclosed, the Confidential Information would give bidders and potential business partners a tremendous advantage in the course of ongoing negotiations to fulfill the balance of the anticipated future capacity need, should EKPC determine that it is necessary to do so. Disclosure would also give participants in the broader energy market a

material advantage in relations with EKPC as a result of knowing the entities with whom EKPC has discussed the possibility of filling the balance of the power sought in the RFP. These market advantages would very likely translate into higher costs for EKPC and, by extension, detrimentally higher rates for EKPC's Members.

4. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. *See* KRS 61.878(1)(c). As set forth above, disclosure of the Confidential Information would permit an unfair advantage to third parties. Moreover, the Kentucky Supreme Court has stated, "information concerning the inner workings of a corporation is 'generally accepted as confidential or proprietary.'" *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The information derived from the responses to the foregoing requests would clearly relate to EKPC's internal deliberations as to which bids it may select to complete the acquisition of up to 300 MW of additional power and capacity. Because the Confidential Information is critical to EKPC's effective execution of business decisions and strategy, it satisfies both the statutory and common law standards for affording confidential treatment. The Commission has previously recognized that bidder information should be afforded confidential treatment. *See e.g. In the Matter of the Application of Atmos Energy Corporation for Approval of Third Party Gas Supply Agreement*, Order, Case No. 2006-00194 (Ky. P.S.C. Aug. 18, 2006) ("The Commission has afforded confidential treatment to Atmos's proposed gas supply agreement, the particulars of the bids and Atmos's analysis.").

5. EKPC does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable confidentiality and nondisclosure agreement, to Gallatin Steel, the Sierra Club or any other intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

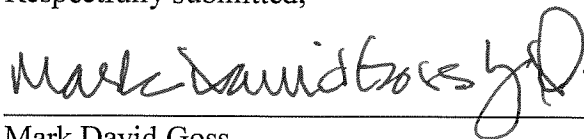
6. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one copy of responses to request 1(b) separately under seal. The public version of EKPC's filing has been redacted and notes that this response has been submitted to the Commission under seal.

7. In accordance with the provisions of 807 KAR 5:001, Section 13(3), EKPC respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will no longer be commercially sensitive so as to likely impair the interests of EKPC if publicly disclosed.

WHEREFORE, on the basis of the foregoing, EKPC respectfully requests the Commission to enter an Order granting this Motion and to so afford such protection from public disclosure to the unredacted copy of referenced response, which is filed herewith under seal, for a period of ten years from the date of entry of such an Order.

This 12th day of November 2013.

Respectfully submitted,



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david@gosssamfordlaw.com

Counsel for East Kentucky Power Cooperative, Inc.

CERTIFICATE OF SERVICE

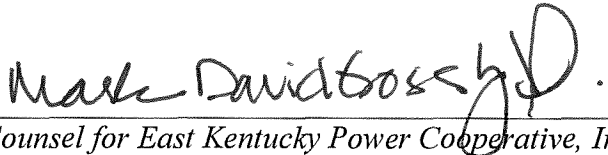
This is to certify that a true and correct copy of the foregoing was deposited in the custody and care of the U.S. Mail, postage prepaid, on this the 12th day of November 2013, addressed to the following:

Mr. Mike Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 510
Cincinnati, OH 45202

Shannon Fisk
Earthjustice
1617 JFK Boulevard, Suite 1675
Philadelphia, PA 19103

Joe Childers
Joe F. Childers & Associates
300 Lexington Building
201 West Short Street
Lexington, KY 40507

Kristen Henry
Sierra Club
85 Second Street
San Francisco, CA 94105



Counsel for East Kentucky Power Cooperative, Inc.

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

AN APPLICATION OF EAST KENTUCKY POWER)	
POWER COOPERATIVE, INC. FOR A CERTIFICATE)	
OF PUBLIC CONVENIENCE AND NECESSITY FOR)	
ALTERATION OF CERTAIN EQUIPMENT AT THE)	CASE NO.
COOPER STATION AND APPROVAL OF A)	2013-00259
COMPLIANCE PLAN AMENDMENT FOR)	
ENVIRONMENTAL SURCHARGE COST)	
RECOVERY)	

**RESPONSES TO COMMISSION STAFF'S SECOND REQUEST FOR
INFORMATION TO EAST KENTUCKY POWER COOPERATIVE, INC.**

DATED OCTOBER 30, 2013

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:


AN APPLICATION OF EAST KENTUCKY POWER)
POWER COOPERATIVE, INC. FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY FOR)
ALTERATION OF CERTAIN EQUIPMENT AT THE)
COOPER STATION AND APPROVAL OF A)
COMPLIANCE PLAN AMENDMENT FOR)
ENVIRONMENTAL SURCHARGE COST)
RECOVERY)

CASE NO.
2013-00259

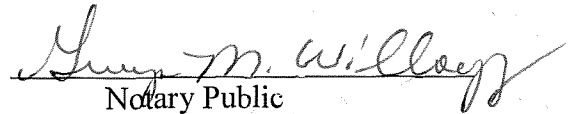
CERTIFICATE

STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Craig A. Johnson, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff's Second Request for Information contained in the above-referenced case dated October 30, 2013, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.



Subscribed and sworn before me on this 12th day of November, 2013.


Notary Public

MY COMMISSION EXPIRES NOVEMBER 30, 2013
NOTARY ID #409352

COMMONWEALTH
COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

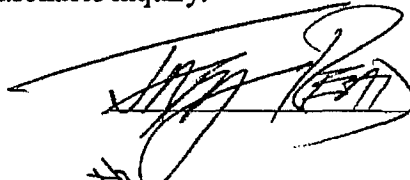
AN APPLICATION OF EAST KENTUCKY POWER)
POWER COOPERATIVE, INC. FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY FOR)
ALTERATION OF CERTAIN EQUIPMENT AT THE)
COOPER STATION AND APPROVAL OF A)
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ENVIRONMENTAL SURCHARGE COST)
RECOVERY)

CASE NO.
2013-00259

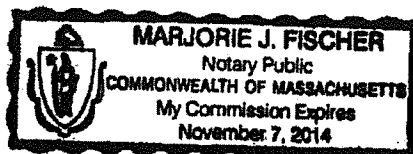
CERTIFICATE

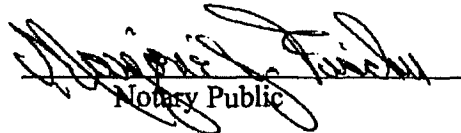
~~Commonwealth~~
STATE OF ~~Massachusetts~~)
COUNTY OF ~~Middlesex~~)

James Read, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff's Second Request for Information contained in the above-referenced case dated October 30, 2013, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.



Subscribed and sworn before me on this 12th day of November, 2013.




Notary Public

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN APPLICATION OF EAST KENTUCKY POWER)
POWER COOPERATIVE, INC. FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY FOR)
ALTERATION OF CERTAIN EQUIPMENT AT THE)
COOPER STATION AND APPROVAL OF A)
COMPLIANCE PLAN AMENDMENT FOR)
ENVIRONMENTAL SURCHARGE COST)
RECOVERY)

CASE NO.
2013-00259

CERTIFICATE

STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Isaac S. Scott, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff's Second Request for Information contained in the above-referenced case dated October 30, 2013, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.

Isaac S. Scott

Subscribed and sworn before me on this 12th day of November, 2013.

Steph M. Willoagy
Notary Public

MY COMMISSION EXPIRES NOVEMBER 30, 2013
NOTARY ID #409352

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

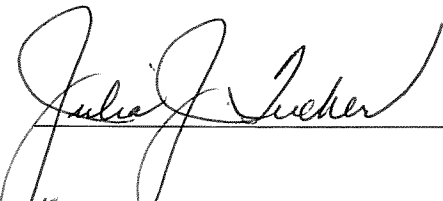
AN APPLICATION OF EAST KENTUCKY POWER)
 POWER COOPERATIVE, INC. FOR A CERTIFICATE)
 OF PUBLIC CONVENIENCE AND NECESSITY FOR)
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CASE NO.
2013-00259

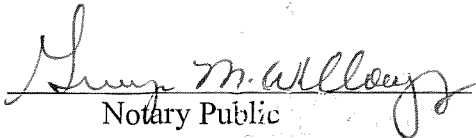
CERTIFICATE

STATE OF KENTUCKY)
)
 COUNTY OF CLARK)

Julia J. Tucker, being duly sworn, states that she has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Public Service Commission Staff's Second Request for Information contained in the above-referenced case dated October 30, 2013, and that the matters and things set forth therein are true and accurate to the best of her knowledge, information and belief, formed after reasonable inquiry.



Subscribed and sworn before me on this 12th day of November, 2013.



Notary Public

MY COMMISSION EXPIRES NOVEMBER 30, 201
NOTARY ID #409352



EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2013-00259

RESPONSE TO INFORMATION REQUEST

**COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 10/30/13
REQUEST 1**

RESPONSIBLE PARTY: James Read

Request 1. Refer to the response to Item 7 of Commission Staff's First Request for Information ("Staff's First Request"), which was filed under seal.

Request 1a. EKPC provided the net present value ("NPV") per MW-year for six of the proposals on the Short List. Provide the NPV per MW-year for the seventh proposal included on the Short List.

Response 1a. The seventh proposal was received from a utility within the state of Kentucky. The proposal was for a unit-contingent purchase from a coal fired plant. EKPC kept the proposal on the short list from a qualitative position, so it could ensure itself that the proposal was fully understood and that it was given due diligence since the offer involved an underutilized in-state resource. The offer was not firm and could be recalled based on the utility's expected load. The cost was based on expected out-of-pocket costs subject to all future enacted environmental laws. The proposal did not meet EKPC's requirement for providing a firm resource going forward and was not quantitatively attractive. Neither EKPC nor Brattle completed a complete NPV analysis of the offer.

Request 1b. The response to 7.a. states that the "[n]umbers have been revised in light of discussions with bidders." Provide the revised numbers for the seven proposals on the Short List.

Response 1b. The following numbers (rounded to thousands of dollars) reflect—in two cases—clarifications obtained through discussions with Short List bidders. See also the response to 1a.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2013-00259

RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 10/30/13
REQUEST 2

RESPONSIBLE PARTY: **Julia J. Tucker**

Request 2. Refer to response to Item 13.b. of Staff's First Request. The response states that "...EKPC would have just under 400 MW of excess capacity as compared to its PJM capacity obligation, assuming no existing capacity was retired."

Request 2a. Confirm that the response indicates that a capacity gap is no longer anticipated.

Response 2a. Yes. A capacity gap is no longer anticipated in 2016.

Request 2b. State whether EKPC has plans to retire any of its units. If the answer is positive, state when and which units will be retired.

Response 2b. EKPC does not have any plans to retire any of its units at this time.



EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2013-00259

RESPONSE TO INFORMATION REQUEST

**COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 10/30/13
REQUEST 3**

RESPONSIBLE PARTY: Julia J. Tucker

Request 3. Refer to the response to Item 14.b. of Staff's First Request. Provide the results of the Request for Proposals negotiations when they are final.

Response 3. EKPC will provide results of its Request for Proposals to the PSC, possibly through a formal request(s) for action from the PSC.



EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2013-00259

RESPONSE TO INFORMATION REQUEST

**COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 10/30/13
REQUEST 4**

RESPONSIBLE PARTY: Craig Johnson

Request 4. Refer to the response to Item 15 of Staff's First Request. Confirm that EKPC is currently burning a low-sulfur, higher-cost coal in Cooper Unit 1, but after completion of the proposed project, EKPC would burn a high-sulfur, lower-cost coal in that unit. If this cannot be confirmed, explain.

Response 4. EKPC confirms it currently is burning Central Appalachian bituminous coal in Cooper Unit 1, but it cannot confirm it would change the type of coal burned after the completion of the proposed project. The decision on the type of coal to burn at the Cooper station cannot be based solely on the difference in the price of the coal. Routing the exhaust from Cooper Unit 1 through the Air Quality Control System ("AQCS") on Cooper Unit 2 does give EKPC the option of burning high-sulfur coal. However, there are several factors that need to be considered besides just the cost of the coal. The coal supplies at the Cooper station are delivered by truck and the cost associated with this transportation has generally offset any cost advantages gained from the lower cost of the higher sulfur coal. In addition, any change in the type of coal burned would have to take into consideration changes required in the quantity of lime used in the AQCS. EKPC will continue to explore and evaluate coal supply options to secure the most cost-effective alternative. At this time, however, EKPC does not have any plans to change the type of coal burned at the Cooper station.



EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2013-00259

RESPONSE TO INFORMATION REQUEST

**COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 10/30/13
REQUEST 5**

RESPONSIBLE PARTY: Isaac S. Scott

Request 5. Refer to page 3 of 4 of the response to Item 31 of Staff's First Request. The response shows that a total fixed-charge rate of 14.324 percent was used in Exhibit 4.b. of the application and 24.064 percent was used in Exhibit ISS-4 of the application. The response states that "...the fixed charge rate utilized when calculating the impacts in Exhibit 4.b. of the Application reflected a system-wide overall average variable operating and maintenance factor. The variable O&M component was changed to reflect the estimated variable operating and maintenance cost factor associated with the Project". Explain why the variable operation and maintenance component for the proposed project is estimated to be approximately 10 percentage points higher than the system-wide overall average.

Response 5. The variable O&M component of 17.55% that was utilized in the fixed-charge rate shown in Exhibit ISS-4 reflects the O&M cost estimate for the Project and the total Project cost, both of which are found in the Application, Exhibit 9, the Andrews Direct Testimony, Exhibit BA-1. The total Project cost of \$14,954,840 and the estimated O&M cost of \$2,624,518 are shown in Exhibit BA-1 pages 37 and 40 of 43, respectively. Dividing the estimated O&M cost for the Project by the total Project cost produces the 17.55% value.

EKPC is proposing to re-route the existing duct work for Cooper Unit 1 so that those emissions flow to the existing Cooper Unit 2 Air Quality Control System. Consequently, the investment in this Project is relatively lower than the cost to construct a stand-

alone emissions treatment system for Cooper Unit 1. The estimated O&M cost reflects the anticipated additional lime and waste disposal costs associated with treating the emissions from Cooper Unit 1. The resulting variable O&M component is thus higher than the system-wide overage average for the simple reason that the proposed Project investment is relatively lower than what the investment cost would be for a stand-alone emissions treatment system for Cooper Unit 1.

EKPC would also like to note that the fixed-charge rate was used to determine the percentage increase in the environmental surcharge at wholesale and retail and the estimated impact on the average residential bill at retail. The fixed-charge rate is not utilized in the calculation of EKPC's monthly environmental surcharge factor. The monthly environmental surcharge factor includes the actual environmental compliance expenses, including variable O&M.