

Goss • Samford PLLC



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December 17, 2013

VIA HAND DELIVERY

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

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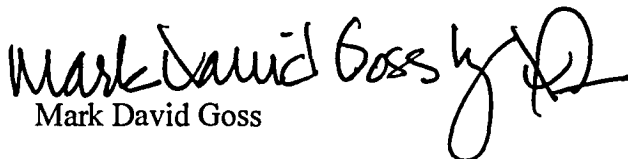
RE: Case No. 2013-00259

Dear Mr. Derouen:

Enclosed for filing, please find one original and ten copies of East Kentucky Power Cooperative, Inc. ("EKPC") additional responses to Sonia McElroy and Sierra Club's November 4, 2013 Supplemental Requests pursuant to the Commission's Order dated December 10, 2013 in the above referenced case. Also enclosed is an original and ten copies of EKPC's Motion for Confidential Treatment ("Motion") regarding the responses to Request 6, 12c, 14c-e, and 46a. One unredacted copy of the designated confidential portion of the responses to Request 6, 12c, 14c-e, and 46a, which is the subject of the Motion, 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
Hon. Matthew E. Gerhart

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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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 supplemental response to the Sierra Club’s Supplemental 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 December 10, 2013, the Commission entered an Order granting portions of the Sierra Club's motion to compel ("Order"). Contemporaneous with this filing, EKPC is tendering an Additional Response to the Sierra Club's Supplemental Request for Information.

3. In Supplemental Request 2.6(a)-(g), the Sierra Club requested EKPC's projected annual costs (with specific cost categories specifically identified), for each year of the NVP analysis, that is associated with each plant in the EKPC fleet. In the Order, the Commission directed EKPC to tender the projected annual costs for Cooper Unit 1. In its Additional Response to Supplemental Request 6(a)-(g), EKPC has provided projected cost data for the Cooper Station, which includes both the Cooper 1 unit and the Cooper 2 unit. The information is being provided for the entire Cooper Station because EKPC's financial forecasts are not prepared on a "by unit" basis.

4. In Supplemental Request 2.12(c), the Sierra Club requested EKPC's projected annual generation, for each of the years of the NPV analysis, for each unit in EKPC's fleet. The Commission's Order directed EKPC to tender projected annual generation to the extent that it relates to Cooper 1. In its Additional Response to Supplemental Request 12(c), EKPC is providing the projected annual capacity information for Cooper 1.

5. In Supplemental Response 2.14(c)-(e), the Sierra Club requested detailed information about the other self-build options prepared by EKPC. The Order directed EKPC to tender more information relating to the various EKPC self-build proposals. In its Additional Response to the Supplemental Request 14(c)-(e), EKPC is providing detailed information for

each of the self-build proposals tendered by EKPC's Production Engineering and Construction ("PE&C") business unit as part of the 2012 request for proposals ("RFP"). This information includes a detailed description of each proposal, the role of EKPC's internal PE&C staff and its consultant in the preparation of the self-build proposals and the nomenclature for identifying EKPC's self-build proposals within the broader scope of submitted bids.

6. In Supplemental Response 2.46(a), the Sierra Club requested a copy of the contract in which Andritz provides certain guarantees. In its Order, the Commission directed EKPC to tender a copy of this contract. In its Additional Response to Supplemental Request 46(a), EKPC is providing the contract in its entirety.

7. The responses to the foregoing requests contain information that: (1) reveals projected cost data for the Cooper Station; (2) projected generation data for Cooper 1; (3) detailed information regarding potential self-build options that were not chosen in the RFP process; and (4) a copy of a contract with a third-party vendor that is itself subject to confidentiality provisions and which contains unique contracting terms.

8. The above-described information (the "Confidential Information") that is included in EKPC's responses to the foregoing Supplemental 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, competitors and potential business partners a tremendous advantage in the broader energy market and a material advantage in commercial relations with EKPC as a result of knowing detailed cost data projections, anticipating generation availability, discovering the terms of specific contracts, business strategies and opportunities considered or implemented by EKPC and various market assumptions made by EKPC.

These commercial advantages would very likely translate into higher costs for EKPC and, by extension, detrimentally higher rates for EKPC's Members. Moreover, the Andritz contract is itself subject to strict confidentiality provisions, the breach of which could inure to the detriment of EKPC's business partner. Due to the pervasive nature of the confidential commercial terms in the Andritz contract, confidential treatment is requested for the entirety of the contract. Should EKPC be forced to make its contracts publicly available, it would be much more difficult to negotiate such contracts in the future if potential vendors are concerned that their proprietary contractual parameters may become public. This too would likely lead to higher costs as EKPC would have fewer vendors with which to contract and a weakened bargaining position in future negotiations.

9. 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). 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.

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

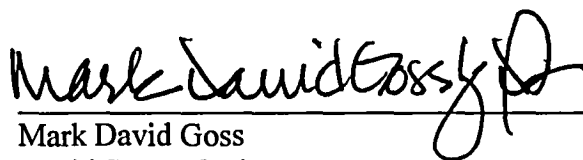
11. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one copy of the unredacted response to the Confidential Information (with the Confidential Information highlighted) separately under seal. Redacted copies of EKPC's Additional Response to the Supplemental Requests are filed contemporaneously herewith.

12. 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 for Confidential Treatment and to so afford such protection from public disclosure to the Confidential Information, which is filed herewith under seal, for a period of ten (10) years from the date of entry of such an Order.

This 17th day of December 2013.

Respectfully submitted,



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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 17th day of December 2013, addressed to the following:

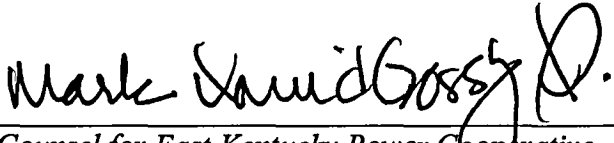
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