

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EAST KENTUCKY POWER COOPERATIVE, INC.'S)	
APPLICATION FOR APPROVAL OF THE)	Case No. 2013-00306
ISSUANCE OF UP TO \$200,000,000 OF SECURED)	
PRIVATE PLACEMENT DEBT, FOR THE)	
AMENDMENT AND EXTENSION OF AN)	
UNSECURED REVOLVING CREDIT AGREEMENT)	
IN AN AMOUNT UP TO \$500,000,000, AND FOR)	
THE USE OF INTEREST RATE MANAGEMENT)	
INSTRUMENTS)	

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 certain responses filed in conjunction with the Commission's First Information Request in the above-captioned proceeding, respectfully states as follows:

1. This case, filed August 5, 2013, requests that the Commission enter an Order authorizing: the amendment and extension of EKPC's unsecured revolving Credit Facility; the issuance of up to \$200,000,000 of secured Private Placement debt; and, EKPC to enter into interest-rate management agreements in an effort to reduce and control its overall interest costs.
2. On August 23, 2013, the Commission served EKPC with Initial Requests for Information which inquired concerning the financial details and mechanics surrounding EKPC's requested approvals set forth in its Application.

3. In Commission Staff Request No. 1.e., EKPC is asked, in conjunction with the proposed issuance of up to \$200,000,000 in Private Placement debt, to provide a Pricing Grid to “show the parameters for the interest rates on the Private Placement debt for 10-, 20-, and 30-year terms”.

4. In Commission Staff Request No. 3, EKPC is asked to refer to the last sentence on page 3 of Exhibit 2 to the Application and provide the calculations supporting the projected \$2,000 per day savings.

5. In Commission Staff Request No. 4.c., EKPC is asked to refer to the second paragraph on page 4 of Exhibit 2 of the Application and the responses to Items 1 and 2 of Commission Staff’s First Information Request in Case No. 2011-00204, and to “identify and provide the basis for the statement that the amendment fees and expense will not exceed 0.20 percent of the Credit Facility commitment”.

6. In Commission Staff Request No. 4.d., EKPC is asked to refer to the second paragraph on page 4 of Exhibit 2 of the Application and the responses to Items 1 and 2 of Commission Staff’s First Information Request in Case No. 2011-00204, and to “provide the calculation used to determine the net savings of \$1,500,000 from a reduction in the Facility Fee and LIBOR Margin over the life of the Credit Facility”.

7. In Commission Staff Request No. 4.e., EKPC is asked to refer to the second paragraph on page 4 of Exhibit 2 of the Application and the responses to Items 1 and 2 of Commission Staff’s First Information Request in Case No. 2011-00204, and to “provide the net present value of the net savings over the term of the Credit Facility”.

8. In Commission Staff Request No. 4.g., EKPC is asked to refer to the second paragraph on page 4 of Exhibit 2 of the Application and the responses to Items 1 and 2 of

Commission Staff's First Information Request in Case No. 2011-00204, and to "provide an updated Pricing Grid, similar to that found in Case No. 2011-00204, to show the parameters of the Facility Fee, LIBOR Margin, and ABR Margin in this case based upon EKPC's current ratings by Fitch Ratings and Standard and Poor's".

9. In its response to Commission Staff Request Nos. 1.e., 3, 4.c., 4.d., 4.e, and 4.g, EKPC is providing specific numerical amounts and sensitive mathematical calculations in order to be responsive. The information tendered by EKPC in response to the above requests are being tendered in redacted form in the public version of EKPC's filing and in an unredacted form filed under seal herewith. Collectively, this information is hereinafter referred to as the "Confidential Information".

10. The Confidential Information contained in EKPC's responses to the aforementioned Commission Staff Requests describe anticipated interest rates and proprietary loan terms and conditions which are an integral part of the requested approval for the unsecured revolving Credit Facility, the secured Private Placement debt, and the entering into of interest-rate management agreements. The open disclosure of such anticipated interest rates and proprietary loan terms would arm lenders with whom EKPC must still negotiate, with information that could allow such lenders an unfair commercial advantage over EKPC and its member systems in such negotiations resulting in higher interest rates and other more restrictive and detrimental conditions, including higher rates to its Members, than would otherwise be the case if the information was not publicly disclosed. As such, this information is confidential and not subject to public disclosure pursuant to KRS § 61.878(1)(c)1. In addition, these proprietary loan terms and conditions are also protected under KRS § 61.878(1)(c)2a, as it is a required disclosure to an agency in conjunction with an application for a loan. Finally, the subject

information is also entitled to protection pursuant to KRS § 61.878(1)(c)2c, as records generally recognized as confidential or proprietary which are confidentially disclosed to an agency in conjunction with the regulation of a commercial enterprise.

11. As set forth above, disclosure of the Confidential Information would permit an unfair commercial advantage to lenders and other third parties. Moreover, the Kentucky Supreme Court has stated, “Information concerning the interworkings 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 being afforded Confidential Treatment. Indeed, the Commission has already recognized the confidential nature of the information included in the responses and has afforded confidential treatment to similar information in a prior proceeding.¹

12. EKPC does not object to limited disclosure of the Confidential Information, pursuant to an acceptable Confidentiality and Non-Disclosure Agreement, to the Attorney General or any other Intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

13. In accordance of the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one copy of the Confidential Information separately under seal. The filing of the Confidential Information is noted in the public version of EKPC’s Responses to Commission Staff Request Nos. 1.e., 3, 4.c., 4.d., 4.e, and 4.g, which include redacted copies of such information. Due to the pervasive nature of the confidential and proprietary information included in EKPC’s

¹See PSC Case No. 2011-00204.

responses to these requests, confidential treatment is sought for the entirety of the Confidential Information.

14. In accordance of 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 (10) years. This will assure that the Confidential Information, if disclosed after that time, will be less likely to include information that continues to be commercially sensitive so as to impair the interests of EKPC if publicly disclosed. However, EKPC reserves the right to seek an extension of the grant of confidential treatment if it is necessary to do so at that time.

WHEREFORE, on the basis of the foregoing, EKPC respectfully requests the Commission to enter an Order granting this Motion for Confidential Treatment and to afford protection from public disclosure to the unredacted copies of 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 29th day of August, 2013.

Respectfully submitted,



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