

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

**AN EXAMINATION BY THE PUBLIC SERVICE
COMMISSION OF THE ENVIRONMENTAL)
SURCHARGE MECHANISM OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR THE)
SIX-MONTH BILLING PERIOD ENDING)
DECEMBER 31, 2013, AND THE PASS THROUGH)
MECHANISM FOR ITS SIXTEEN MEMBER)
DISTRIBUTION COOPERATIVES)**

PSC CASE NO. 2014-00051

RECEIVED

AUG 22 2014

**PUBLIC SERVICE
COMMISSION**

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 data request number 5b of the Commission’s data requests issued on August 7, 2014, in the above-captioned proceeding, respectfully states as follows:

1. This case was initiated by the Commission in order to complete its six-month review of EKPC’s environmental surcharge as billed from July 1, 2013, to December 31, 2013, to its Member distribution companies. This proceeding was also initiated by the Commission to review the pass-through mechanism as billed from August 1, 2013, to January 31, 2014, to retail member customers.

2. On August 7, 2014, the Commission issued data requests to EKPC, which included request 5b related to the invoices EKPC sent to its Members during the six-month

review period. Contemporaneous with the filing of this Motion, EKPC is tendering information responsive to this request.

3. The response to this request provides confidential customer information that is commercially sensitive and proprietary regarding EKPC's largest industrial customers. The response includes names of industrial customers, the substations that serve these customers and the billing information for these customers.

4. The above-described information (the "Confidential Information") that is included in EKPC's response to the foregoing data request is proprietary and commercially sensitive information that is retained by EKPC and each relevant Member on a "need-to-know" basis and that is not publicly available. If disclosed, the Confidential Information could give competitors an unfair advantage by knowing the largest customers' demand and billing information. Also, if disclosed, the Confidential Information would possibly have an effect on economic development in the service territories since this information describes the usage of the largest industrial customers on EKPC's system. Other states' economic development officials, who are charged with attracting investment and new jobs to their jurisdictions (despite generally higher electricity costs), would be eager to know specific details of large industrial customers' energy requirements. This information would be readily discernable from the Member invoices if the names of the specific substations are not afforded confidential treatment. Moreover, even though not all substations on the EKPC system are directly correlated with a large industrial customer, the redaction of only those substation names which are associated with a large customer would provide sufficient information for competitors and other states' economic development officials to decipher the specific large industrial customers whose names would be redacted.

5. 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 and potentially cause EKPC to lose load – which would be detrimental to interests of its Members and, ultimately, their retail customers. 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 response to the foregoing request would clearly relate to EKPC’s largest industrial customers, their demand and billing information. 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.

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

7. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one un-redacted copy of its response to Request No. 5b separately under seal. The public version of EKPC’s filing notes that these responses have been submitted to the Commission under seal in redacted form.

8. 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 un-redacted copy of the referenced response, which is filed herewith under seal, for a period of ten years from the date of entry of such an Order.

This 22nd day of August 2014.

Respectfully submitted,



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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 22nd day of August 2014, addressed to the following:

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