

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER)	CASE NO.
COOPERATIVE, INC. FOR THE APPROVAL OF A)	2015-00422
SPECIAL CONTRACT)	

ORDER

On March 31, 2020, East Kentucky Power Cooperative, Inc. (EKPC) filed an annual filing regarding buy through activity with AGC Automotive Americas (AGC) as required by the Commission pursuant to its March 14, 2016 Order. EKPC also filed a cover letter requesting, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1), and KRS 365.880, that the Commission grant confidential protection for ten years for certain redacted portions of the report. On March 31, 2021, EKPC again filed its annual filing as ordered by the Commission with a cover letter requesting that the Commission grant confidential protection for ten years for certain redacted portions of the report on the same basis as in the March 31, 2020 request.

In support of its two requests, EKPC argued that the redacted portions of the filings are exempt from disclosure under KRS 61.878(1)(c)(1) as “[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

The redacted data from the filings includes disclosure of the interruptions, changes in load, cost information, and savings attributable to EKPC's special contract with AGC. This is a buy through contract in which EKPC agreed to purchase replacement power for AGC in the event PJM Interconnection LLC (PJM) ordered a curtailment of electricity because of market or transmission conditions so AGC's production would not be disrupted. EKPC argues that the amounts in the documents are internally derived by EKPC and disclosure would give competitors sensitive information about EKPC's interaction with AGC and potentially harming EKPC's competitive position in the energy market.

Having considered the request and the material at issue, the Commission finds that EKPC's requests shall be granted. Revealing EKPC's purchase costs through the energy market and the buy through rates pursuant to its special contract would be disadvantageous in both the energy market and with other parties EKPC might contract with for buy through agreements. The Commission previously granted confidential treatment to special contract rates pursuant to KRS 61.878(1)(c)(1).¹ The Commission finds that the designated material redacted from EKPC's 2020 and 2021 reports on its AGC special contract are records that meet the criteria for confidential treatment and are exempted from public disclosure for ten years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

¹ Case No. 2020-00019, *Electronic Application of Kentucky Power Company for Approval of a Contract for Electric Service with Air Products and Chemicals, Inc.* (Ky. PSC Mar. 30, 2020), Order.

IT IS THEREFORE ORDERED that:

1. EKPC's request for confidential treatment for information redacted from its 2020 and 2021 annual reports is 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 ten years 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 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 for which confidential treatment was granted 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.

By the Commission

ENTERED
FEB 25 2022 rCS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2015-00422

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