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PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EAST KENTUCKY POWER )  
COOPERATIVE, INC. FOR DEVIATION FROM ) Case No. 2015-00358  
OBLIGATION RESULTING FROM CASE NO. 2012-00169 )

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**MOTION FOR CONFIDENTIAL TREATMENT**

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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 portions of EKPC's first status report filed in the above-captioned proceeding, respectfully states as follows:

1. In its Application, EKPC requested permission to deviate from a directive contained in the Commission's final Order entered in Case No. 2012-00169 (the "PJM Integration Case").<sup>1</sup> Specifically, EKPC sought an eighteen (18) month extension of the deadline by which it must file a rate mechanism to share with customers certain capacity benefits earned through EKPC's participation in PJM Interconnection, LLC ("PJM"). By way of an Order entered on November 30, 2015, the Commission: (1) granted EKPC's motion to hold the case in abeyance for ninety (90) days to allow the parties to discuss an appropriate resolution of the issues raised therein;

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<sup>1</sup> *In the Matter of the Application of East Kentucky Power Cooperative, Inc. to Transfer Functional Control of Certain Transmission Facilities to PJM Interconnection, LLC* (Ky. P.S.C., Dec. 20, 2012).

and (2) directed EKPC to file a status report on January 14, 2016. Contemporaneous with this filing, EKPC is tendering its first status report.

2. Information which is proprietary, confidential, sensitive, and commercially valuable is set forth in the first status report. All of this information relates to EKPC's actual and projected financial performance as a fully-integrated member of PJM. EKPC seeks Confidential Treatment for this information (the "Confidential Information"), which is more particularly described as: (1) the trade benefits realized by EKPC from June 2013 through March 2014 and from June 2014 through May 2015; and (2) the actual and projected revenues from PJM's Capacity Market auctions for the 2013-2014 through 2018-2019 Delivery Years.

3. The Confidential Information includes detailed, highly sensitive economic data related to EKPC's market positions within PJM. The Confidential Information reflects proprietary financial results and projections developed internally by EKPC that is not available from any commercial or other source, and the public disclosure of the Confidential Information would potentially harm EKPC's competitive position in the marketplace, to the detriment of EKPC and its customers. The Kentucky Open Records Act exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(c)(1).

4. KRS 61.878(1)(c)(1) protects "records 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 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). All of the Confidential Information is critical to EKPC's effective execution of business decisions and strategy. If disclosed, the Confidential Information would give EKPC's competitors insights into EKPC's

business operations and strategies that are otherwise publicly unavailable. Accordingly, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

5. The Confidential Information is proprietary information that is retained by EKPC on a “need-to-know” basis and that is not publicly available.<sup>2</sup> The Confidential Information is distributed within EKPC only to those employees who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

6. EKPC does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable confidentiality and nondisclosure agreement, to 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 (1) copy of the unredacted first status report separately under seal with the Confidential Information highlighted. Ten redacted copies of the first status report have also been tendered to the Commission.

8. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC respectfully requests that the Confidential Information be withheld from public disclosure for ten (10) years.

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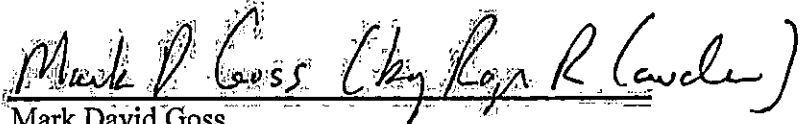
<sup>2</sup> EKPC has sought confidential treatment of the same information in the course of filing the two PJM participation annual reports. *See* Letter from Mark David Goss to Jeff Derouen requesting confidential treatment for actual and projected PJM membership benefits and costs in EKPC’s first Annual Report on PJM Integration, Case No. 2012-00169 Post-Case Correspondence (filed June 2, 2014); Letter from Mark David Goss to Jeff Derouen requesting confidential treatment for actual and projected PJM membership benefits and costs in EKPC’s second Annual Report on PJM Integration, Case No. 2012-00169 Post-Case Correspondence (filed July 31, 2015).

9. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, EKPC will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10).

WHEREFORE, on the basis of the foregoing, EKPC respectfully requests that the Commission classify and protect as confidential the specific Confidential Information described herein for a period of ten (10) years.

This 14<sup>th</sup> day of January, 2016.

Respectfully submitted,

A handwritten signature in black ink that reads "Mark D. Goss (by Rep. R. Cavden)". The signature is written in a cursive style and is positioned above a horizontal line.

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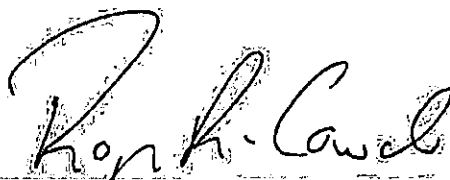
*Counsel for East Kentucky Power Cooperative, Inc.*

## CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was served by depositing same into the custody and care of the U. S. Mail, postage pre-paid, on this 14<sup>th</sup> day of January 2016, addressed to the following:

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