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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)

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 portions of EKPC's response to a request for information made during the informal conference held January 29, 2016, 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").¹ 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").

¹ *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).

2. Pursuant to notice and re-notice issued by Commission Staff, an informal conference was held in this matter on January 29, 2016.² During this informal conference, KIUC requested that EKPC provide additional information concerning one of the flow-back rate mechanisms under consideration, and specifically sought certain calculations and projections related to the proposed capital credit allocation methodology discussed by the parties and Commission Staff. Contemporaneous with the filing of the present motion, EKPC is tendering its response to KIUC's request for information through a Notice of Filing.

3. EKPC's response to KIUC's request includes illustrative modeling based on EKPC's near-term financial forecast (the "Confidential Information"). The Confidential Information includes proprietary, confidential calculations and estimations which reflect EKPC's projected financial performance as a fully-integrated member of PJM in 2017, 2018, and 2019. This detailed, highly sensitive economic data was developed internally by EKPC, is retained by EKPC on a "need-to-know" basis, and is not available from any commercial or other source.³ The Confidential Information is generally recognized as confidential and proprietary in the energy industry, 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. In light of these facts, the Kentucky Open Records Act exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(c)(1).

² Attendees of this Informal Conference included representatives of EKPC and Commission Staff, as well as intervenors Kentucky Industrial Utility Customers, Inc. ("KIUC"), and the Attorney General of the Commonwealth of Kentucky (the "AG").

³ EKPC has consistently sought confidential treatment of information related to its projected performance in PJM. *See* EKPC's First Status Report and Motion for Confidential Treatment, Case No. 2015-00358 (filed January 14, 2016); 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).

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). 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. 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.⁴

6. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing, in a separate sealed envelope marked confidential, one (1) copy of its response to KIUC’s request for information with the Confidential Information highlighted. EKPC is also filing a redacted original and ten (10) redacted copies of its response.

7. 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.

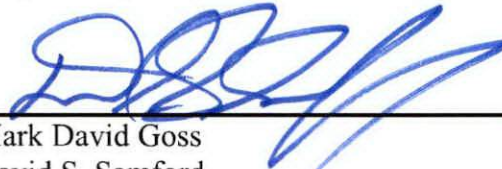
⁴ EKPC entered into a confidentiality agreement with KIUC on January 13, 2016, and with the AG on January 14, 2016.

8. 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 26th day of February, 2016.

Respectfully submitted,



Mark David Goss
David S. Samford
M. Evan Buckley
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B-325
Lexington, KY 40504
(859) 368-7740
mdgoss@gosssamfordlaw.com
david@gosssamfordlaw.com
ebuckley@gosssamfordlaw.com


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 26th day of February, 2016, addressed to the following:

Michael L. Kurtz
Jody M. Kyler Cohn
Kurt J. Boehm
Boehm, Kurtz & Lowry
35 East Seventh Street, Suite 1510
Cincinnati, OH 45202

Rebecca Goodman, Assistant Attorney General
Larry Cook, Assistant Attorney General
Office of the Attorney General
Office of Utility and Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204



*Counsel for East Kentucky Power
Cooperative, Inc.*