

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

**AN EXAMINATION OF THE APPLICATION)
OF THE FUEL ADJUSTMENT CLAUSE OF)
EAST KENTUCKY POWER COOPERATIVE,)
INC. FROM NOVEMBER 1, 2015 THROUGH)
APRIL 30, 2016)**

CASE NO. 2016-00231

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 information filed in response to a request for information in the above-captioned proceeding, respectfully states as follows:

1. The Commission issued its Order establishing this case on August 12, 2016 and included the initial set of requests for information to EKPC as an Appendix to that Order. The Commission issued supplemental requests for information to EKPC on September 21, 2016. Request No. 1d of the supplemental requests asks EKPC to file the following information:

Purchase confirmations relating to the master agreements for coal, natural gas, or fuel oil. (For voluminous natural gas purchases, if the utility filed documentation such as monthly invoices or a listing of transactions showing date, quantity purchased, and price in lieu of filing the purchase confirmations, confirm that such documentation was filed.)

2. In its response to Request No. 1d, EKPC is providing documents detailing EKPC's purchases of natural gas and fuel oil during the review period. Certain details of these transactions

(i.e., mmbtus, gallonage, prices and total transaction costs) are being tendered in redacted form in the public version of EKPC's filing and in an unredacted form filed under seal herewith. Collectively, these details are hereinafter referred to as the "Confidential Information."

3. The Confidential Information contains extensive information that describes the commercial terms of transactions for natural gas and fuel oil. This information is commercially sensitive and proprietary.

4. The Confidential Information is retained by EKPC on a "need-to-know" basis and is not publicly available. If disclosed, the Confidential Information would give potential vendors and competitors a tremendous advantage in the course of ongoing and future negotiations to procure natural gas and fuel oil. These market advantages would likely translate into higher costs for EKPC and, by extension, detrimentally higher rates for EKPC's Members. Thus, disclosure of the Confidential Information would be highly prejudicial to EKPC, EKPC's Members and those Members' retail customers.

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. 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). 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.

6. EKPC does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure 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.

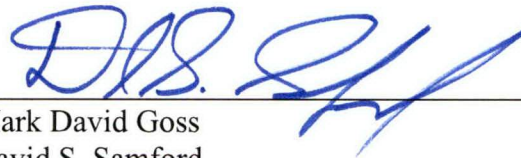
7. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one unredacted copy of the Confidential Information separately under seal with the Confidential Information highlighted. The filing of the Confidential Information is noted in the public version of EKPC's response to Request No. 1d.

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 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.

This 5th day of October, 2016.

Respectfully submitted,



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