

**Goss
Samford**

ATTORNEYS AT LAW | PLLC

M. Evan Buckley
ebuckley@gosssamfordlaw.com
(859) 368-7740

February 23, 2017

RECEIVED

FEB 23 2017

PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

Dr. Talina Mathews
Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602

Re: IN THE MATTER OF THE APPLICATION OF EAST KENTUCKY
POWER COOPERATIVE, INC. FOR A DECLARATORY ORDER
CONCERNING A TRANSMISSION LINE RELOCATION PROJECT
Case No. 2017- 00100

Dr. Mathews:

Please find enclosed for filing with the Commission one (1) redacted original and ten (10) redacted copies of the above-referenced Application of East Kentucky Power Cooperative, Inc. ("EKPC"). In addition, enclosed for filing are one (1) original and ten (10) copies of EKPC's Motion for Confidential Treatment. Finally, enclosed in a separate sealed envelope marked "Confidential" is one (1) unredacted copy of EKPC's Application (including unredacted exhibits) with the relevant confidential information highlighted or otherwise denoted. Please return a file-stamped copy of both the Application and Motion to me.

Please do not hesitate to contact me if you have any questions or concerns.

Respectfully submitted,



|| M. Evan Buckley

Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY PUBLIC SERVICE COMMISSION

RECEIVED

FEB 23 2017

IN THE MATTER OF:

PUBLIC SERVICE
COMMISSION

THE APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR A)
DECLARATORY ORDER CONCERNING)
A TRANSMISSION LINE RELOCATION)
PROJECT)

Case No. 2017-00100

VERIFIED APPLICATION

Comes now East Kentucky Power Cooperative, Inc. ("EKPC"), by counsel, pursuant to KRS 278.020, 807 KAR 5:001, Section 14, 807 KAR 5:001, Section 19 and other applicable law, and for its Application requesting a Declaratory Order concerning a transmission line relocation project, respectfully states as follows:

I. INTRODUCTION

1. EKPC seeks an Order from the Commission declaring that no Certificate of Public Convenience and Necessity ("CPCN") is required prior to relocating a 2.16 mile section of a 138 kilovolt ("kV") electric transmission line from one set of existing structures to another, adjacent set of existing structures in order to mitigate a contingency constraint identified by PJM Interconnection, LLC ("PJM"), the planning coordinator and operator of the EKPC transmission system. Because the Application contains several references to critical energy infrastructure, all references to the transmission facilities in question are redacted and a motion for confidential treatment is being tendered herewith pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1)(m).

II. FILING REQUIREMENTS

2. Pursuant to 807 KAR 5:001 Section 14(1), EKPC's mailing address is P.O. Box 707, Winchester, Kentucky 40392-0707. EKPC's electronic mail address to receive service is psc@ekpc.coop. Applicant's counsel should be served at mdgoss@gosssamfordlaw.com; david@gosssamfordlaw.com and ebuckley@gosssamfordlaw.com.

3. Pursuant to 807 KAR 5:001, Section 14(2), EKPC is a Kentucky corporation, in good standing, and was incorporated on July 9, 1941.

4. Pursuant to 807 KAR 5:001 Section 19(2), the grounds for EKPC's request for a declaratory Order are set forth below.

III. BACKGROUND

A. Overview of EKPC

5. EKPC is a not-for-profit, Member-owned generation and transmission rural electric cooperative corporation with its headquarters in Winchester, Kentucky. EKPC provides wholesale electricity to its sixteen Member distribution cooperatives, which in turn serve approximately 530,000 Kentucky homes, farms and commercial and industrial establishments in eighty-seven (87) Kentucky counties.

6. In total, EKPC owns and operates a total of approximately 2,955 MW of net summer generating capability and 3,257 MW of net winter generating capability. EKPC owns and operates coal-fired generation at Cooper Station in Pulaski County, Kentucky (341 MW) and Spurlock Station in Mason County, Kentucky (1,346 MW). EKPC also owns and operates natural-gas fired generation at Smith Station in Clark County, Kentucky (753 MW (summer)/989 MW (winter)) and Bluegrass Station in Oldham County, Kentucky (501 MW (summer)/567 MW (winter)), and landfill gas-to-energy facilities in Boone County, Kentucky (3 MW), Laurel County,

Kentucky (3 MW), Greenup County, Kentucky (2 MW), Hardin County, Kentucky (2 MW), Pendleton County, Kentucky (3 MW) and Glasgow, Kentucky (1 MW). Finally, EKPC purchases hydropower from the Southeastern Power Administration at Laurel Dam in Laurel County, Kentucky (70 MW), and the Cumberland River system of dams in Kentucky and Tennessee (100 MW).

7. EKPC owns 2,940 circuit miles of high voltage transmission lines in various voltages. EKPC also owns the substations necessary to support this transmission line infrastructure. Currently, EKPC has seventy-four (74) free-flowing interconnections with its neighboring utilities. EKPC's transmission system is operated by PJM, of which EKPC has been a fully-integrated member since June 1, 2013. PJM is a regional electric grid and market operator with operational control of over 180,000 MW of regional electric generation. It operates the largest capacity and energy market in North America. EKPC's record peak demand of 3,507 MW occurred on February 20, 2015.

B. Relevant Facts

8. PJM annually performs studies to assess the strength and resiliency of their bulk grid transmission systems for which it has planning coordination and operational responsibility, which includes the EKPC system. The purpose of these reviews is to determine what vulnerabilities the transmission grid faces and what effects would likely result from various contingencies involving the loss of transmission infrastructure. These reviews provide an essential benefit to utilities that are members of PJM by helping to balance anticipated load growth, the efficient expenditure of capital on transmission system improvements and the mitigation of adverse effects of known and potential conditions impacting the bulk transmission grid.

9. PJM and EKPC have identified a transmission contingency on a portion of the EKPC system that requires mitigation. The issue stems from the potential consequences to the transmission grid that would result in the event that one or more physical double circuit transmission structures were lost on a key portion of a transmission right-of-way. The double circuit structures in question support both the [REDACTED] transmission line and the [REDACTED] transmission line.

10. As part of PJM's 2014 Regional Transmission Expansion Plan ("RTEP") studies, a violation of PJM planning criterion was identified. PJM determined that for a simultaneous outage of the double circuit structures that supports both the [REDACTED] and [REDACTED] 138 kV lines, the voltage at the EKPC [REDACTED] substation would drop from 139.44 kV (prior to the double circuit outage) to 124.48 kV (immediately after the double circuit outage), which is a drop in voltage of approximately 10.8%. This violates PJM's maximum voltage drop criterion of 10% for a contingency event. Additionally, the post-contingency voltage would be only marginally above PJM's minimum voltage requirement for the 138 kV system of 124.2 kV.

11. To mitigate this contingency, EKPC proposed a project to relocate a 2.16 mile section of the [REDACTED] transmission line to an adjacent set of existing double circuit structures currently supporting only the [REDACTED] transmission line. A map showing the existing transmission lines is attached hereto and incorporated herein as Exhibit 1. A map showing the proposed reconfiguration of these transmission lines is attached hereto and incorporated herein as Exhibit 2. PJM reviewed this proposal and agreed that it is the most efficient solution to address the inadequate performance of the system for the contingency

conditions. Therefore, EKPC was directed by PJM to complete this project no later than June 1, 2019.

12. In order to accomplish the mitigation efforts, EKPC will need to install new conductor for the [REDACTED] transmission line on the existing double circuit structures currently supporting only the [REDACTED] transmission line. EKPC anticipates that it will have to construct two new structures to accommodate the tie in of the new conductor into the existing [REDACTED] line, but it will not need to acquire any new right-of-way for this project.¹ EKPC will also have no need to change the design, configuration or location of the existing structures supporting the [REDACTED] transmission line in order to accommodate the [REDACTED] line. Moreover, while EKPC will install new and improved conductor as part of the project, no change will be made to either the voltage or delivery points associated with the [REDACTED] transmission line. The conductor for the portion of the existing [REDACTED] line that will no longer be used will be de-energized and left in place to continue to provide physical support for the structures. The existing [REDACTED] transmission line will not be affected by the project.

13. EKPC estimates that the total cost of the line relocation will be approximately \$750,000. EKPC plans to finance the project initially through general funds but ultimately will seek low-interest financing from RUS. As a result of the project, EKPC's net utility plant will increase marginally by 0.03%. Neither EKPC's operating revenue or net revenue will be significantly impacted by the project and EKPC's financial condition will not be materially changed.

¹ Although no new right-of-way is required, EKPC will likely have to negotiate a new easement with the effected property owner to accommodate the new structures.

IV. REQUEST FOR DECLARATORY RELIEF

14. Pursuant to 807 KAR 5:001, Section 19(1), a utility may seek a declaratory Order with respect to the meaning and scope of the provisions of KRS Chapter 278. Broadly, KRS 278.020(1) requires a utility to obtain a CPCN prior to commencing construction of any “plant, equipment, property, or facility for furnishing to the public” electric transmission service. In order to obtain a CPCN, a utility must demonstrate that the proposed facilities are needed and will not result in wasteful duplication. *See Kentucky Utilities Co. v. Public Service Com'n*, 252 S.W.2d 885, 890 (Ky. 1952).

15. Because it would be impractical and inefficient to require a utility to obtain a CPCN for every new construction project, KRS 278.020(1) creates a statutory exemption from the CPCN requirement for “ordinary extensions of existing systems in the usual course of business.” The Commission has specified in 807 KAR 5:001 Section 15(3) that the ordinary course exemption applies to projects that:

...do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders service, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charge to its customers.

16. In the context of electric transmission lines, KRS 278.020(2) states that the construction of any transmission line of 138 kV or greater that extends 5,280 feet or further “shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate of public convenience and necessity.” However, the statute goes on to state that the CPCN requirement will not apply in three specific circumstances, which are as follows:

- (a) The replacement or upgrading of any existing electric transmission line; or
- (b) The relocation of any existing electric transmission line to accommodate construction or expansion of a roadway or other transportation infrastructure; or
- (c) An electric transmission line that is constructed solely to serve a single customer and that will pass over no property other than that owned by the customer to be served.

17. The relocation of the [REDACTED] line involves the installation of more than 5,280 feet of 138 kV or higher conductor. Thus, a CPCN is likely necessary unless the proposed relocation is considered an ordinary extension of EKPC's existing system in the usual course of business. For that to occur, the relocation project must fall within one of the three statutory safe harbors of KRS 278.020(2). Although the project is a relocation of an existing line, it is not related to any transportation project or infrastructure and KRS 278.020(2)(b) does not apply. Likewise, the transmission line serves many customers and passes over several property owners' properties, making KRS 278.020(2)(c) unavailable as a statutory safe harbor.

18. EKPC believes that KRS 278.020(2)(a) does apply in this situation. Although the terms "replacement" and "upgrade" are not defined in KRS Chapter 278, the relocation in question clearly qualifies as both a replacement and an upgrade of the existing [REDACTED] transmission line under any interpretation of the statute that gives these terms their plain and ordinary meaning – as the Commission is required to do. *See* KRS 446.080. The primary goal in construing statutes is to give effect to the General Assembly's intent. *See Kentucky Indus. Utility Customers, Inc. v. Kentucky Utilities Co.*, 983 S.W.2d 493, 500 (Ky. 1998).

19. EKPC intends to replace the existing conductor of the [REDACTED] transmission line with similar conductor spanning nearby existing double circuit structures. The new conductor will operate at the same voltage and will transmit a similar amount of power under

nearly all conditions as the existing conductor. The new conductor will also terminate at the same points (and attach to the same substation equipment at each terminal point) as the existing conductor; thus, the [REDACTED] transmission line will continue to take and deliver energy at the same points both before and after the project. The purpose, use and operation of the line will not change from an engineering or operational perspective. In addition, EKPC will not be required to acquire any right-of-way to install the new conductor. The existing conductor will be de-energized, so there will be no duplication of facilities. For all of these reasons, the project will result in a replacement of the existing [REDACTED] transmission line.

20. The relocation also qualifies as an upgrade of the existing [REDACTED] transmission line. As part of the project, EKPC will install slightly larger conductor (954 kCM ACSR 54 x 7 strands) versus the conductor currently installed (795 kCM ACSR 26 x 7 strands) for the [REDACTED] line. This conductor has a higher capacity to carry an electric current of approximately eleven percent (11%) greater than the existing line. Moreover, the new conductor will help balance the mechanical load upon the structure currently supporting the [REDACTED] transmission line while also maintaining similar line sag line characteristics given ambient temperatures. Each of these characteristics constitutes an upgrade of the existing [REDACTED] transmission pathway.

21. Moreover, the purpose of the project is to mitigate a contingency identified by PJM in the course of its system resiliency review. By relocating the [REDACTED] line to an existing set of adjacent double circuit structures, EKPC will be diminishing the danger of a contingency affecting the transmission line, as identified by PJM, which will provide greater resiliency to the transmission grid as a whole. Enhanced system resiliency through diminished risk from identified contingencies constitutes an upgrade from the status quo.

22. Finally, the addition of the [REDACTED] line to the structures currently supporting the [REDACTED] line is an upgrade of the existing transmission structures that will be utilized to carry both circuits. By fully utilizing the existing structures, EKPC will be upgrading their capacity and contribution to the overall EKPC transmission system. In sum, as both a replacement and upgrade, the [REDACTED] transmission line project is an ordinary extension of EKPC's existing systems in the usual course of its business.

V. CONCLUSION

23. In order to prudently respond to the contingency identified by PJM, EKPC must relocate the existing [REDACTED] transmission line to an adjacent set of existing double circuit structures which are currently ready to support the relocation. Due to the unique facts and circumstances of this case, the relocation project qualifies as both a "replacement" and an "upgrade" of the existing [REDACTED] transmission line and EKPC respectfully requests the Commission to affirm this fact and hold that no CPCN is necessary prior to commencing work.

24. EKPC respectfully requests the Commission to issue its Order in this case on or before May 31, 2017. A decision by this date will assist EKPC in its efforts to address the identified transmission contingency in an efficient and timely manner, consistent with the directives of PJM.

WHEREFORE, on the basis of the foregoing, EKPC respectfully requests the Commission to enter a Declaratory Order, on or before May 31, 2017, holding that the relocation project is both a "replacement" and an "upgrade" of the existing [REDACTED] transmission line and, accordingly, no CPCN is necessary as a prerequisite to commencing work to relocate the line.

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.*

EXHIBITS

Exhibit 1 – Map of Existing Transmission System (**Confidential**)

Exhibit 2 – Map of Proposed Transmission System (**Confidential**)



CONFIDENTIAL

EXHIBIT

tabbies

1



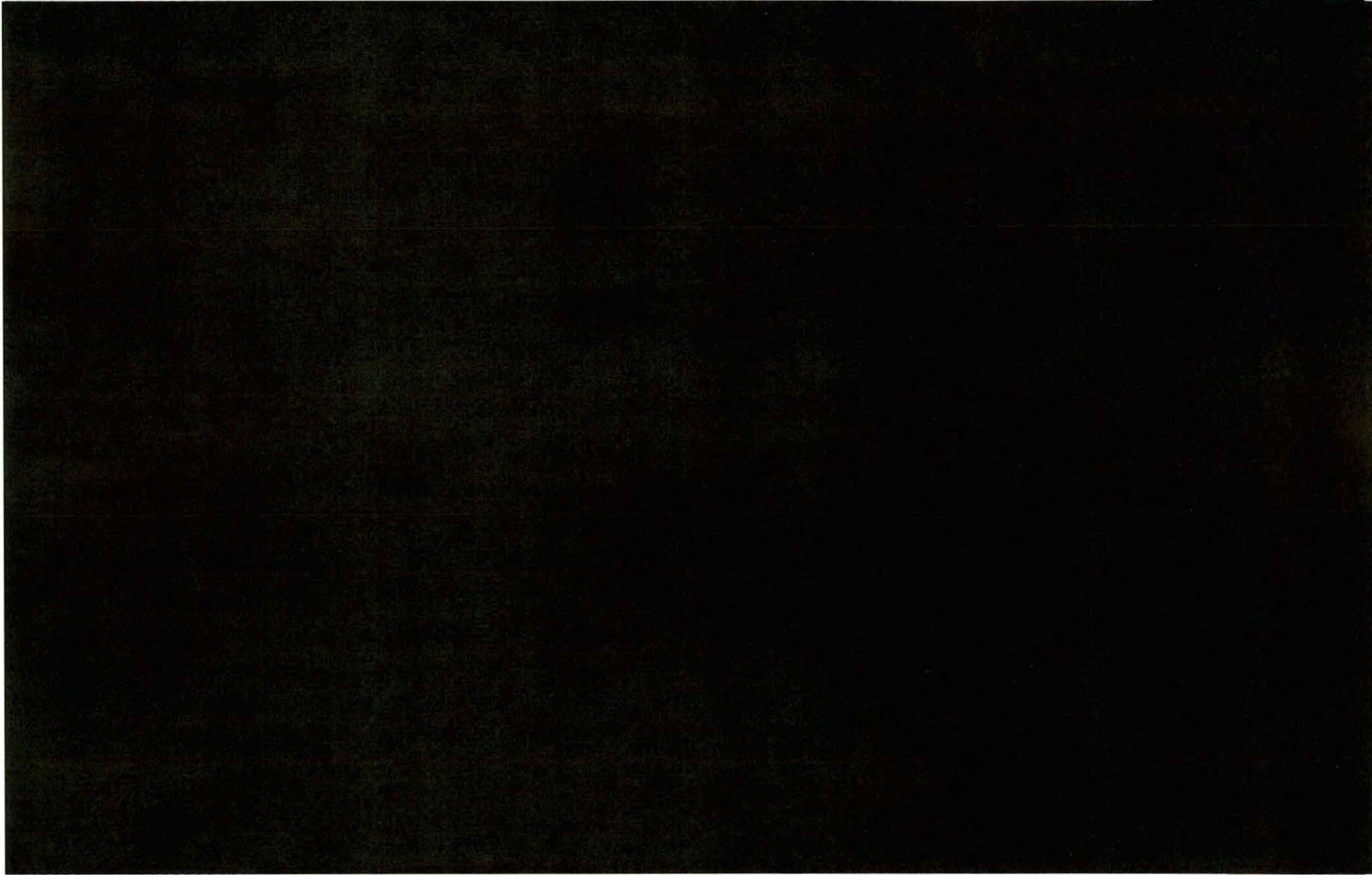


CONFIDENTIAL

EXHIBIT

2

tabbies



COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

FEB 23 2017

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

THE APPLICATION OF EAST KENTUCKY)
POWER COOPERATIVE, INC. FOR A)
DECLARATORY ORDER CONCERNING)
A TRANSMISSION LINE RELOCATION)
PROJECT)

Case No. 2017-00100

MOTION FOR CONFIDENTIAL TREATMENT

Comes now East Kentucky Power Cooperative, Inc. (“EKPC”), by 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 Application and related exhibits filed in the above-captioned proceeding, respectfully states as follows:

1. Contemporaneously with this Motion, EKPC has filed an Application requesting an Order from the Commission declaring that it need not obtain a Certificate of Public Convenience and Necessity prior to undertaking a particular transmission line relocation project. EKPC intends to complete the project in order to mitigate a transmission contingency recognized and examined as part of PJM’s 2014 Regional Transmission Expansion Plan (“RTEP”); essentially, EKPC seeks to avoid potential consequences that may result in the event that one or more specific double circuit transmission structures was lost on a key portion of transmission right-of-way in EKPC’s service territory.

2. As part of its Application, EKPC has identified the specific line segments of its transmission infrastructure that are the subject of the relevant transmission contingency and the proposed project. EKPC has also provided, as exhibits to its Application, certain maps that depict the transmission line segments at issue. These items are referred to herein collectively as the “Confidential Information.”

3. KRS 61.878(1)(m)(1) protects “[p]ublic records the disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability in preventing protecting against, mitigating, or responding to a terrorist act....,” and specifically exempts from public disclosure certain records pertaining to public utility critical systems. *See* KRS 61.878(1)(m)(1)(f).

4. The Confidential Information includes identifications and depictions of certain critical energy infrastructure necessary to transmit electricity in the region. If disclosed in conjunction with the remainder of EKPC’s Application, the Confidential Information could be utilized to commit or further a criminal or terrorist act, disrupt critical public utility systems, and/or intimidate or coerce the civilian population. Disclosure of the Confidential Information could also result in the disruption of innumerable other infrastructure systems which relate to, or rely upon, the safe and reliable provision of electricity. Moreover, disclosure of the Confidential Information could have a reasonable likelihood of threatening the public safety, particularly in light of the transmission contingency information already publicly available. Put plainly, maintaining the confidentiality of the Confidential Information relating to critical energy infrastructure is necessary to protect the interests of EKPC, its Owner-Members and end-use Members, and the region at large.

5. The Confidential Information is proprietary information that is retained by EKPC on a “need-to-know” basis and that is not publicly available. 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 Application and exhibits separately under seal with the Confidential Information highlighted or otherwise denoted. An original and ten (10) redacted copies of the Application with exhibits have also been tendered to the Commission.

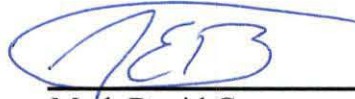
8. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC respectfully requests that the Confidential Information be withheld from public disclosure indefinitely.

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 indefinitely.

This 23rd day of February, 2017.

Respectfully submitted,



Mark David Goss
David S. Samford
M. Evan Buckley
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B-235
Lexington, KY 40504
(859) 368-7740
mdgoss@gosssamfordlaw.com
david@gosssamfordlaw.com
ebuckley@gosssamfordlaw.com

Counsel for East Kentucky Power Cooperative, Inc.