

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER)	
COOPERATIVE, INC. FOR APPROVAL OF THE)	
AUTHORITY TO ISSUE UP TO \$300,000,000 OF)	CASE NO.
SECURED PRIVATE PLACEMENT DEBT AND / OR)	2018-00115
SECURED TAX EXEMPT BONDS AND FOR THE)	
USE OF INTEREST RATE MANAGEMENT)	
INSTRUMENTS)	

ORDER

On March 27, 2018, East Kentucky Power Cooperative, Inc. (EKPC), filed an application for the approval of authority to issue up to \$300,000,000 of secured private placement debt, among other things. On July 2, 2018, EKPC responded to Commission Staff's Second Request for Information (Staff's Second Request) and simultaneously filed a Motion for Confidential Treatment, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(c)(1), in which it requests that information regarding interest rates it expects to receive on the debt for which approval was requested be exempt from disclosure for a period of ten years.¹

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as

¹ The information for which confidential treatment is requested consists of a single "indicative" interest rate for debt with a term of 10 years and a single "indicative" interest rate for debt with a term of 20 years, which EKPC redacted from its response to Staff's Second Request, Item 10 regarding interest rates that EKPC expects to receive when the debt is placed.

otherwise provided by KRS 61.870 to 61.884.”² Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.³ The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.⁴

Having reviewed the Motion for Confidential Treatment and the information at issue, the Commission finds interest rates that EKPC contends are “indicative” of what it expects to receive on the debt would be recognized as confidential under the circumstances herein. Public disclosure of those projected rates would also likely place EKPC at a competitive disadvantage. The “indicative rates” are essentially projections of the rates that EKPC expects to receive on debt that will be competitively bid. Thus, the Commission finds that the information at issue meets the criteria for confidential treatment and, therefore, that EKPC’s Motion for Confidential Treatment should be granted.

IT IS THEREFORE ORDERED that:

1. EKPC’s Motion for Confidential Treatment filed on July 2, 2018, is granted.
2. The information regarding expected interest rates for which confidential treatment was sought meets the criteria for confidential treatment and, therefore, that information shall be exempt from public disclosure for a period of ten years, unless the Commission orders otherwise.

² KRS 61.872(1); *see also* KRS 278.020(1) (indicating that the Commission may, in its discretion, conduct a public hearing on any request for a certificate of need and convenience); KRS 278.020(9) (indicating that a public hearing is required in certain situations involving the construction of transmission lines); KRS 278.260(1) (“No order affecting the rates or service complained of shall be entered by the commission without a formal public hearing.”).

³ *See* KRS § 61.871.

⁴ 807 KAR 5:001, Section 13 (2)(c).

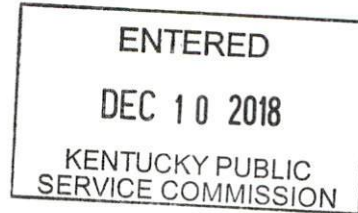
3. The use of the information granted confidential treatment herein shall comply with 807 KAR 5:001, Section 13(9).

4. EKPC shall inform the Commission if the information granted confidential treatment herein becomes publicly available or no longer qualifies for confidential treatment.

5. If a non-party to this proceeding requests to inspect materials containing the information granted confidential treatment by this Order and the period during which the information has been granted confidential treatment has not run, EKPC shall have 20 days from receipt of written notice of the request to demonstrate that the information still falls within the exclusions from disclosure requirements established in KRS 61.878. If EKPC is unable to make such demonstration, the requested materials shall be made available for inspection.

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By the Commission



ATTEST:


Executive Director

Case No. 2018-00115

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