

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION OF THE APPLICATION	)	
OF THE FUEL ADJUSTMENT CLAUSE OF	)	CASE NO.
EAST KENTUCKY POWER COOPERATIVE,	)	2019-00003
INC. FROM NOVEMBER 1, 2016 THROUGH	)	
OCTOBER 31, 2018	)	

ORDER

On February 25, 2019, Eastern Kentucky Power Cooperative (EKPC) filed a petition pursuant to KRS 61.878 and 807 KAR 5:001, Section 13(2), requesting that the Commission grant confidential protection to the identified portions of the Response to Request Number 4, Response to Request Number 5, and Response to Request number 11 contained in the Appendix to the Commission’s Order of February 11, 2019.

Specifically, EKPC seeks confidential treatment of its bid tabulation sheets from written coal supply solicitations (Response No. 4), bid tabulation sheets from oral coal supply solicitations (Response No. 5), and EKPC’s updated Fuel and Admissions Department Procurement Manual (Procurement Manual) (Response No. 11). The confidential information includes: procurement strategies; coal specifications received from third party bidders; pricing data for coal bids received from third-party bidders; and recommendations from EKPC Staff regarding the selection of particular vendors to supply fuel to EKPC’s generating fleet.

As the basis for its request, EKPC states that the confidential information is maintained by EKPC on a “need-to-know” basis and is not publicly available. EKPC

states that public disclosure of the confidential information would give potential vendors and competitors a tremendous competitive advantage in the course of ongoing and future negotiations to procure fuel and fuel-related commodities. EKPC asserts that this advantage would lead to higher costs for EKPC and, thus, higher rates for EKPC's members. EKPC requests that this information remain confidential for ten years.

Having considered the petition and the material at issue, the Commission finds that the designated material contained in Response No. 4, Response No. 5, and Response No. 11 is generally recognized as confidential or proprietary, and therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. EKPC's petition for confidential protection for Response No. 4, Response No. 5, and Response No. 11 is granted.
2. The designated information shall not be placed in the public record or made available for public inspection for ten years or until further Order of this Commission.
3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
4. EKPC shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.
5. If a non-party to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, then EKPC shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the

exclusions from disclosure requirements established in KRS 61.878. If EKPC is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days following an Order finding that the material no longer qualifies for confidential treatment in order to allow EKPC to seek a remedy afforded by law.

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By the Commission

ENTERED  
JAN 07 2020  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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