

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST)	
KENTUCKY POWER COOPERATIVE, INC. FOR)	
CERTIFICATES OF PUBLIC CONVENIENCE AND)	
NECESSITY AND SITE COMPATIBILITY)	
CERTIFICATES FOR THE CONSTRUCTION OF A)	
96 MW (NOMINAL) SOLAR FACILITY IN MARION)	CASE NO.
COUNTY, KENTUCKY AND A 40 MW (NOMINAL))	2024-000129
SOLAR FACILITY IN FAYETTE COUNTY,)	
KENTUCKY AND APPROVAL OF CERTAIN)	
ASSUMPTIONS OF EVIDENCES OF)	
INDEBTEDNESS RELATED TO THE SOLAR)	
FACILITIES AND OTHER RELIEF)	

ORDER

On October 25, 2024, East Kentucky Power Cooperative, Inc. (EKPC) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for ten years for its July 19, 2024 response to Lafayette-Fayette Urban County Government's (LFUCG's) Supplemental Requests for Information (LFUCG's Supplemental Request), Item 21(a).

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 otherwise provided by KRS 61.870 to 61.884."¹ Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The

¹ KRS 61.872(1).

² See KRS 61.871.

party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

In support of its motion, EKPC argued for the application of KRS 61.878(1)(c)(1), which provides an exception to the requirement for public disclosure for records that are “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.”

EKPC’s response to LFUCG’s Supplemental Request, Item 21(a), included a copy of its Environmental Site Assessment Report. EKPC argued that the report is the work product of a third-party contracted by EKPC, and includes commercially sensitive maps, measurements, and comprehensive analysis of a broad number of elements weighed in business and project decisions.⁴ EKPC also argued that the report addressed proposals not yet fully developed and exposure of these details would also permit an unfair commercial advantage.⁵

Having considered the motion and the material at issue, the Commission finds that the motion for confidential treatment should be denied. EKPC has not met the burden to establish that such a report is generally recognized as confidential or proprietary or that disclosure would permit an unfair commercial advantage to competitors. EKPC sought confidential treatment for the entire document, and most of the report is clearly not entitled to protection. Information in the report was discussed at hearing without objection and

³ 807 KAR 5:001, Section 13(2)(c).

⁴ Motion for Confidential Treatment (Motion) (filed Oct. 25, 2024) at 2.

⁵ Motion at 2.

without entering confidential session.⁶ Although the report is the product of a third-party, it does not appear to include any proprietary information that would be of value to the third party to keep private or would benefit any other party if disclosed. The material described does not meet the criteria for confidential treatment and should not be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878.

IT IS THEREFORE ORDERED that:

1. EKPC's October 25, 2024 motion for confidential treatment is denied.
2. The designated material denied confidential treatment by this Order is not exempt from public disclosure and shall be placed in the public record and made available for public inspection.
3. If EKPC objects to the Commission's determination that the requested material not be granted confidential treatment, it must seek either rehearing pursuant to KRS 278.400 or judicial review of this Order pursuant to KRS 278.410. Failure to exercise either of these statutory rights will be deemed as agreement with the Commission's determination of which materials should be granted confidential treatment.
4. Within 20 days of the date of service of this Order, EKPC shall file a revised version of the designated material for which confidential treatment was denied, reflecting as unredacted the information that has been denied confidential treatment.
5. The designated material for which EKPC's request for confidential treatment has been denied shall neither be placed in the public record nor made available

⁶ Hearing Video Testimony of October 29, 2025 Hearing; Patrick Bischoff Testimony at 14:11-14:13.

for inspection for 30 days from the date of service of this Order in order to allow EKPC to seek a remedy afforded by law.


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Entered on this 19th day of May, 2026.


PUBLIC SERVICE COMMISSION



Angie Hattor
Chair



Mary Pat Regan
Commissioner



Andrew W. Wood
Commissioner

ATTEST:



Linda C. Bridwell, PE
Executive Director

Case No. 2024-00129

Service List for 2024-00129

* L. Allyson Honaker
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 1203
Lexington, KY 40509

* Aaron D Reedy
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KY 40507

* Chris Adams
East Kentucky Power Cooperative, Inc.
4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707

* Honorable David J. Barberie
Managing Attorney
Lexington-Fayette Urban County Government
Department Of Law
200 East Main Street
Lexington, KY 40507

* Dennis G Howard II
Howard Law PLLC
740 Emmett Creek Lane
Lexington, KY 40515

* Heather Temple
Honaker Law Office, PLLC
1795 Alysheba Way
Suite 1203
Lexington, KY 40509

* Honorable Matthew R Malone
Attorney at Law
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KY 40507

* East Kentucky Power Cooperative, Inc.
4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707

* Denotes served by Email