

# Goss ◻ Samford PLLC



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May 30, 2014

**VIA HAND DELIVERY**

**RECEIVED**

JUN 2 2014

Mr. Jeff Derouen, Executive Director  
Kentucky Public Service Commission  
P.O. Box 615  
211 Sower Boulevard  
Frankfort, KY 40602

PUBLIC SERVICE  
COMMISSION

**RE: *In the Matter of the Application of East Kentucky Power Cooperative, Inc. to Transfer Functional Control of Certain Transmission Facilities to PJM Interconnection, LLC, P.S.C. Case No. 2012-00169 - Annual Report of East Kentucky Power Cooperative, Inc. – Request for Confidential Treatment***

Dear Mr. Derouen:

Attached, please find a copy of the Annual Report of East Kentucky Power Cooperative, Inc. (“EKPC”) regarding its participation in the PJM Interconnection, LLC (“PJM”) (“Annual Report”). In accordance with KRS 61.878, 807 KAR 5:001, Section 13(3) and other applicable law, EKPC hereby respectfully requests that certain portions of the Annual Report should be classified as confidential for a period of five years from the date of this filing, for the specific reasons set forth below.

The Kentucky Open Records Act exempts from disclosure certain confidential and proprietary commercial information. *See* KRS 61.878(1)(c). To qualify for this exemption from public disclosure and, therefore, to maintain the confidentiality of the information, a party must establish that disclosure of the confidential and proprietary commercial information would permit an unfair advantage to competitors of that party. Public disclosure of the Confidential Information described in the Annual Report would lead to such a result.

The Annual Report includes a disclosure of: (1) the amount of Annual Revenue Rights (“ARRs”) and associated ARR revenue allocated to EKPC; (2) the amount of ARR revenue converted to Financial Transmission Rights (“FTRs”); (3) the amount of revenue remaining after converting to FTRs; (4) the additional amount of transmission rights purchased by EKPC; (5) EKPC’s hedging positions; and, (6) actual and projected membership costs and benefits. Given the nature of the ARR/FTR market, EKPC and its Members would be materially damaged if EKPC’s competitors were permitted to have access to this information. The information provided under seal discloses sensitive and proprietary information as these positions, and the underlying strategies, are used by EKPC to provide service to its Members at fair, just and reasonable rates.

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Maintaining the confidentiality of this information is necessary to protect the interests of both EKPC and its Members.

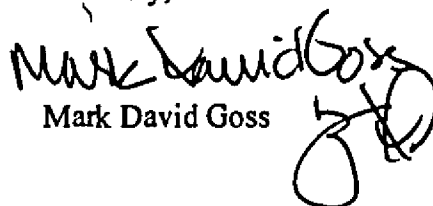
The public disclosure of the Company's transmission rights awarded, converted and purchased, its hedging strategies, and actual and projected membership costs and benefits would reveal information that is, quite obviously, highly sensitive, commercially valuable and strictly proprietary. The public disclosure of this information would potentially harm EKPC's competitive position in the marketplace, to the detriment of EKPC and its customers. The Confidential Information contained in the exhibit to the Annual Report was developed internally by EKPC personnel, is not on file with any public agency, and is not available from any commercial or other source. Moreover, the aforementioned Confidential Information in the Annual Report 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. The Confidential Information for which EKPC is seeking confidential treatment is not known outside of EKPC. This Confidential Information was, and remains, integral to EKPC's effective execution of business decisions and strategy. Indeed, as the Kentucky Supreme Court has found, "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).

The attached information is also entitled to confidential treatment because it constitutes a trade secret under the two prong test of KRS 365.880: (a) the economic value of the information as derived by not being readily ascertainable by other persons who might obtain economic value by its disclosure; and (b) the information is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The economic value of the information derives from the fact that it reveals EKPC's market positions and strategies – which is commercially valuable. Second, EKPC certainly endeavors to maintain the confidentiality of the information by limiting its dissemination, even within the company.

In accordance with 807 KAR 5:001, Section 13(3), I am enclosing: (1) one copy of the annual report, under seal, which identifies the confidential material; and (2) ten copies of the annual report in which the confidential material is redacted. On behalf of EKPC, I respectfully request that the Confidential Information be treated as confidential materials under the Commission's regulations for a period of at least five (5) years from today's date. Please return a file-stamped copy of this filing to my office.

Please let me know if you have any questions.

Sincerely,

  
Mark David Goss

Enclosure