

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF

THE JOINT APPLICATION OF EAST KENTUCKY)	
POWER COOPERATIVE, INC. AND INTER-COUNTY)	
ENERGY CORPORATION FOR APPROVAL OF)	CASE NO.
AN INDUSTRIAL POWER AGREEMENT WITH)	2020-00193
ECONOMIC DEVELOPMENT RIDER AND)	
RENEWABLE ENERGY PURCHASES)	

MOTION FOR CONFIDENTIAL TREATMENT

Come now East Kentucky Power Cooperative, Inc. (“EKPC”) and Inter-County Energy Corporation (“Inter-County”), collectively the “Joint Applicants”, by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for their Motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to two of EKPC’s responses to Commission’s Staff’s second request for information in the above-captioned proceeding, respectfully state as follows:

1. On June 26, 2020, the Joint Applicants filed an Application in this matter wherein they requested that the Commission enter an Order authorizing and approving an Industrial Power Agreement with Economic Development Rider and Renewable Energy Purchases by and between themselves and Diageo Americas Supply, Inc. (“Diageo”), dated May 28, 2020 (the “Agreement”).

2. On August 27, 2020, Commission Staff issued its second request for information to the Joint Applicants. Contemporaneous with the filing of this Motion, the Joint Applicants are tendering information responsive to Commission Staff's requests.

3. Two responses provided by EKPC include commercially sensitive and proprietary information. Specifically, Commission Staff Request No. 1 states as follows:

Refer to the Joint Applicant's response to Commission Staff's First Request for Information (Staff's First Request), Item 1, Excel spreadsheet titled "CONFIDENTIAL – Response1 – EKPC – Inter County – Diageo – Sample Billings". Also, refer to EKPC's current tariff on file with the Commission, P.S.C. No. 35, First Revised Sheet No. 37, which states that owner-members will be billed at the rate of \$2.50 per increment for Renewable Energy Certificate (REC) purchases, and Inter-County Energy's current tariff on file with the Commission, P.S.C. KY. No. 8, Revision #1, Sheet No. 44, which states that customers may make contributions of any amount in \$2.75 increments for REC purchases. Explain why the rates listed for REC purchases in the Excel spreadsheet do not match the amounts listed in EKPC's and Inter-County Energy's tariff.

4. As part of its response, EKPC is providing an updated confidential spreadsheet. EKPC set forth the basis for affording the original spreadsheet confidential treatment in its August 17, 2020 Motion for Confidential Treatment, which is adopted and incorporated herein as if set forth herein. The same points and legal authorities which would cause the spreadsheet originally filed with the Commission to be afforded confidential treatment are applicable to the filing of the revised spreadsheet.

5. In addition, EKPC's response to Request No. 4 is confidential in nature and contains information that should not be publicly disclosed. Commission Staff's Request No. 4 states as follows:

Refer to the Joint Applicants' response to Staff's First Request, Item 3. Explain how the administrative fee places an unacceptable burden on Diageo.

6. In the response to Request No. 4, EKPC is providing a narrative response that specifies the number of participants in EKPC's Rate H Renewable Energy Credit ("REC") purchase program, the approximate number of RECs acquired by EKPC on an annual basis, the total administrative fee associated with such purchases and the price paid for RECs. The response also discloses the likely REC purchase procurement strategy of EKPC's and Inter-County's customer. The information tendered by EKPC in response to Commission Staff's Request No. 4 is hereinafter referred to as the "Confidential Information."

7. The Confidential Information is commercially sensitive, proprietary and unique to EKPC and its Rate H participants. It would be unfair for EKPC's annual REC purchase obligations to be publicly disclosed as it would give vendors in the REC market tremendous insight into the company's strategies, budget and customer participation levels. Such information could be used to manipulate pricing to the ultimate detriment of EKPC and Rate H participants.

8. The Confidential Information is retained by EKPC on a "need-to-know" basis and is not publicly available. Public dissemination of the Confidential Information would likely impair the ability of the Joint Applicants to enter into future discussions with customers and potential customers, and may detrimentally influence EKPC's relationships with both the businesses to which the Confidential Information relates and others.

9. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. *See* KRS 61.878(1)(c) and (d). As set forth above, disclosure of the Confidential Information would permit an unfair advantage to third parties, and it is clear that the

business considerations, developments, and negotiations for which confidential treatment is sought represent “information concerning the inner workings of a corporation [which] is ‘generally accepted as confidential or proprietary.’” *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). Having satisfied both statutory and common law standards, the Confidential Information should be afforded confidential treatment.

10. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one copy of the updated spreadsheet and Confidential Information separately under seal. The filing of these documents on a confidential basis is noted in the public version of EKPC’s response to Commission Staff Request No. 1 and Request No. 4, which include redacted copies of such information. Due to the pervasive nature of the confidential and proprietary information included in EKPC’s response to these requests, confidential treatment is sought for the entirety of the updated spreadsheet and Confidential Information.

12. In accordance with the provisions of 807 KAR 5:001, Section 13(3), EKPC respectfully requests that the updated spreadsheet provided in response to Commission Staff Request No. 1 and the response to Commission Staff Request No. 4 be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will be less likely to include information that continues to be commercially sensitive so as to impair the interests of EKPC if publicly disclosed. However, EKPC reserves the right to seek an extension of the grant of confidential treatment if it is necessary to do so at that time.

WHEREFORE, on the basis of the foregoing, Joint Applicants respectfully request the Commission to enter an Order granting this Motion for Confidential Treatment and to so afford such protection from public disclosure to the unredacted copies of the updated spreadsheet and

the Confidential Information, which are filed herewith under seal, for a period of ten years from the date of entry of such an Order.

This 9th day of September, 2020.

Respectfully submitted,



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and Inter-County Energy Corporation*

CERTIFICATE OF SERVICE

This will certify that the foregoing document was filed via the Commission's electronic filing system today. The undersigned hereby certifies that the electronic filing is a true and accurate copy of the documents being filed in paper medium; the electronic filing was transmitted to the Commission on September 9, 2020; there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; paper copies of this information will be hand-delivered to the Commission within thirty (30) days of the lifting of the present State of Emergency relating to the COVID-19 pandemic.



*Counsel for East Kentucky Power Cooperative, Inc.
and Inter-County Energy Corporation*

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

ELECTRONIC JOINT APPLICATION OF EAST)	
KENTUCKY POWER COOPERATIVE, INC. AND)	
INTER-COUNTY ENERGY COOPERATIVE)	CASE NO.
CORPORATION FOR APPROVAL OF AN)	2020-00193
INDUSTRIAL POWER AGREEMENT WITH)	
ECONOMIC DEVELOPMENT RIDER AND)	
RENEWABLE ENERGY PURCHASES)	

**RESPONSES TO COMMISSION STAFF'S SECOND REQUEST FOR
INFORMATION TO EAST KENTUCKY POWER COOPERATIVE, INC.
AND INTER-COUNTY COOPERATIVE, INC.**

DATED AUGUST 27, 2020

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF EAST)
KENTUCKY POWER COOPERATIVE, INC. AND)
INTER-COUNTY ENERGY COOPERATIVE)
CORPORATION FOR APPROVAL OF AN)
INDUSTRIAL POWER AGREEMENT WITH)
ECONOMIC DEVELOPMENT RIDER AND)
RENEWABLE ENERGY PURCHASES)

CASE NO.
2020-00193

CERTIFICATE

STATE OF KENTUCKY)
)
COUNTY OF CLARK)

David Crews, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Commission Staff's Second Request for Information in the above-referenced case dated August 27, 2020, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.



Subscribed and sworn before me on this 9th day of September, 2020.



Notary Public - #590567
Commission expires - 11/30/2021

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

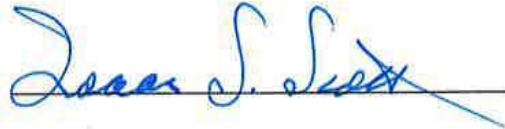
ELECTRONIC JOINT APPLICATION OF EAST)
KENTUCKY POWER COOPERATIVE, INC. AND)
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RENEWABLE ENERGY PURCHASES)

CASE NO.
2020-00193

CERTIFICATE

STATE OF KENTUCKY)
)
COUNTY OF CLARK)

Isaac S. Scott, being duly sworn, states that he has supervised the preparation of the responses of East Kentucky Power Cooperative, Inc. to the Commission Staff's Second Request for Information in the above-referenced case dated August 27, 2020, and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.



Subscribed and sworn before me on this 9th day of September, 2020.



Notary Public - #590567
Commission expires - 11/30/2021

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2020-00193
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 8/27/2020
REQUEST 1

RESPONSIBLE PARTY: **Isaac S. Scott**

Request 1. Refer to the Joint Applicant's response to Commission Staff's First Request for Information (Staff's First Request), Item 1, Excel spreadsheet titled "CONFIDENTIAL – Response1 – EKPC – Inter County – Diageo – Sample Billings". Also, refer to EKPC's current tariff on file with the Commission, P.S.C. No. 35, First Revised Sheet No. 37, which states that owner-members will be billed at the rate of \$2.50 per increment for Renewable Energy Certificate (REC) purchases, and Inter-County Energy's current tariff on file with the Commission, P.S.C. KY. No. 8, Revision #1, Sheet No. 44, which states that customers may make contributions of any amount in \$2.75 increments for REC purchases. Explain why the rates listed for REC purchases in the Excel spreadsheet do not match the amounts listed in EKPC's and Inter-County Energy's tariff.

Response 1. Through an inadvertent error, market prices were utilized for the purchase of RECs instead of the rates from the tariffs cited in the request. The response has been revised to reflect the rates of \$2.50 for EKPC and \$2.75 for Inter-County and is being provided with this response, subject to a request for confidential treatment.

EAST KENTUCKY POWER COOPERATIVE, INC.
PSC CASE NO. 2020-00193
RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 8/27/2020
REQUEST 2

RESPONSIBLE PARTY: Isaac S. Scott

Request 2. Refer to the Joint Applicants' response to Staff's First Request, Item 1, Excel spreadsheet titled "CONFIDENTIAL - Response 1 - EKPC - Inter-County – Diageo - Sample Billings". Explain why, for each of the billing periods, the number of months in operation is listed as 11.

Response 2. Diageo has indicated to EKPC and Inter-County that it intends to shut down operations for approximately one month each year as part of its normal procedures. Thus, when determining the monthly energy usage, the annual estimated energy was divided by 11 months instead of 12.

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2020-00193

RESPONSE TO INFORMATION REQUEST

**COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 8/27/2020
REQUEST 3**

RESPONSIBLE PARTY: David Crews

Request 3. Refer to the Joint Applicants' response to Staff's First Request, Item 3. Also, refer to EKPC's current tariff on file with the Commission, P.S.C. No. 35, First Revised Sheet No. 37. Confirm that the administrative fee being waived is the \$0.25 per increment listed in the Monthly Program Contribution section of EKPC's Rate H, Wholesale Renewable Energy Program. If not confirmed, explain.

Response 3. Confirmed.

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2020-00193

RESPONSE TO INFORMATION REQUEST

COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION DATED 8/27/2020
REQUEST 4

RESPONSIBLE PARTY: David Crews

Request 4. Refer to the Joint Applicants' response to Staff's First Request, Item 3. Explain how the administrative fee places an unacceptable burden on Diageo.

Response 4. When EKPC designed Rate H and included the administrative fee, EKPC envisioned that participants would be similar to the current participants. That said, EKPC's Rate H provides an excellent balancing tool to meet Diageo's 100% green goal. If Rate H were not available, it would be difficult if not impossible to match a varying amount of solar generation with a varying amount of load.

EKPC manages approximately [REDACTED] \$2.50-units per year to support its Rate H. There are 814 participants currently on Rate H. EKPC estimates that its annual administrative expense for this program is approximately \$[REDACTED]. EKPC collects [REDACTED] units times 0.25 \$/unit, which yields [REDACTED] in revenue - a very close match of revenue collection to the expense. The average participant purchases [REDACTED] units per year and the administrative cost per participant is \$[REDACTED]

For the delivery year July 1, 2021 through June 30, 2022 Diageo will require an estimated [REDACTED] Renewable Energy Credits (“REC”) to offset its electric energy consumption. Diageo has expressed interest in purchasing Voluntary Green E RECs to offset its consumption and these RECs are currently being marketed at approximately \$ [REDACTED] per REC. The math to convert this to units is as follows - [REDACTED] Diageo will purchase an estimated [REDACTED] units in its first year.

The administrative burden to purchase [REDACTED] units for Diageo would not be materially more than purchasing [REDACTED] for the average participant currently. However, Diageo would pay \$ [REDACTED] for this transaction while the average participant pays \$ [REDACTED]. EKPC believes this would place an undue burden on Diageo compared to other customers.

This response is provided subject to a request for confidential treatment.