

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF EAST)	
KENTUCKY POWER COOPERATIVE, INC.)	
FOR A GENERAL ADJUSTMENT OF RATES)	Case No. 2021-00103
APPROVAL OF DEPRECIATION STUDY)	
AMORTIZATION OF CERTAIN REGULATORY)	
ASSETS AND OTHER GENERAL RELIEF)	

**EAST KENTUCKY POWER COOPERATIVE, INC.’S
MOTION FOR CONFIDENTIAL TREATMENT**

Comes now East Kentucky Power Cooperative, Inc. (“EKPC”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to certain information filed in its Application in the above-captioned proceeding, respectfully states as follows:

1. Contemporaneously with this Motion, EKPC is tendering its Application for an adjustment of rates in the above-styled case. As part of the Application, EKPC is filing Direct Testimony of Mr. Anthony Campbell and Mr. Thomas Stachnik.

2. As part of Mr. Campbell’s testimony, EKPC has included the cumulative savings EKPC has realized from its participation in the markets operated by PJM Interconnection, LLC (“PJM”), along with the estimated savings for borrowing costs from more favorable interest rates that EKPC has achieved in recent years.

3. As part of Mr. Stachnik's testimony, EKPC has included the estimated savings for borrowing costs from lower interest rates that EKPC has achieved along with specific terms from its credit agreement terms including the current pricing grid in its Credit Facility.

4. The information included in the testimony of Mr. Campbell and Mr. Stachnik is being tendered in redacted form in the public version of EKPC's filing and in an unredacted form filed under seal herewith. Collectively, this information and these documents are hereinafter referred to as the "Confidential Information."

5. The Confidential Information contains sensitive information that describes the cost savings that EKPC has been able to realize as a result of joining PJM. It also includes the interest rates and proprietary information pertaining to the interest savings and credit terms EKPC has obtained. The public disclosure of this information would give other participants in the PJM market insights into EKPC's market strategies and performance within PJM. Likewise, the Confidential Information could arm prospective lenders, with whom EKPC may need to negotiate with in the future, with data to allow such lenders an unfair commercial advantage over EKPC. The Confidential Information is commercially sensitive and proprietary.

6. The Confidential Information is retained by EKPC on a "need-to-know" basis and is not publicly available. If disclosed, the Confidential Information would give potential lenders and market competitors a tremendous competitive advantage in the course of ongoing and future negotiations. These market advantages would likely translate into higher costs for EKPC and, by extension, detrimentally higher rates for EKPC's Members. Thus, disclosure of the Confidential Information would be highly prejudicial to EKPC, EKPC's Owner-Member Cooperatives and those owner-embers' End-Use Retail Members.

7. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. *See* KRS 61.878(1)(c). As set forth above, disclosure of the Confidential Information would permit an unfair advantage to third parties. Moreover, the Kentucky Supreme Court has stated, “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). Because the Confidential Information is critical to EKPC’s effective execution of business decisions and strategy, it satisfies both the statutory and common law standards for being afforded confidential treatment. Indeed, the Commission has routinely recognized the confidential nature of the information included in the responses and has afforded confidential treatment to identical information in a prior proceeding.¹

8. EKPC does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure agreement, to the Attorney General or any other intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one copy of the Confidential Information separately under seal. The filing of the Confidential Information is noted in the public version of Mr. Campbell and Mr. Stachnik’s Direct Testimony, which include redacted copies of such information.

¹ *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for Approval of the Acquisition of Existing Combustion Turbine Facilities from Bluegrass Generating Company, LLC at the Bluegrass Generating Station in LaGrange, Oldham County, Kentucky and for Approval of the Assumption of Certain Evidences of Indebtedness*, Order, Case No. 2015-00267 (Ky. P.S.C. Jan. 12, 2016) (granting confidential treatment for net capacity revenues in PJM); *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for Approval of the Amendment and Extension or Refinancing of an Unsecured Revolving Credit Agreement in an Amount up to \$800,000,000 of Which up to \$100,000,000 May be in the Form of an Unsecured Renewable Term Loan and \$200,000,000 of Which Will be in the Form of a Future Increase Option*, Order, Case No. 2016-00116 (Ky. P.S.C. April 12, 2016) (granting confidential treatment to rate and terms associated with Credit Facility).

10. In accordance with the provisions of 807 KAR 5:001, Section 13(3), EKPC respectfully requests that the Confidential Information 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, EKPC respectfully requests 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 Confidential Information, which is filed herewith under seal, for a period of ten years from the date of entry of such an Order.

This 1st day of April, 2021.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on April 1, 2021; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium will be delivered to the Commission within thirty (30) days of the conclusion of the present COVID-19 related state of emergency.

A handwritten signature in blue ink, appearing to be 'D. B. H.', is written over a horizontal line.

Counsel for East Kentucky Power Cooperative, Inc.