

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

2022 INTEGRATED RESOURCE PLAN OF EAST
KENTUCKY POWER COOPERATIVE, INC.

) CASE NO.
) 2022-00098

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 a portion of the Responses to Post-Hearing Data Requests propounded by the Joint Intervenors (“Joint Intervenors’ Request”) dated December 22, 2022 with regard to EKPC’s 2022 Integrated Resource Plan, respectfully states as follows:

1. EKPC is filing its Responses to the Joint Intervenors’ Request contemporaneously herewith. Response No. 4 to the Joint Intervenors’ Requests contains highly confidential information. EKPC will provide a copy of the confidential information to each of the intervenors that have signed a confidentiality agreement,

2. Joint Intervenors’ Request No. 4 states as follows:

Please refer to Joint Intervenors’ cross-examination of EKPC Witness Fernie Williams, beginning at approximately 13:36 on December 13, 2022. Please produce input files documenting all of the constraints applied in the RTSim Resource Optimizer modeling.

3. In its response to Joint Intervenors’ Request No. 4, EKPC is providing an Excel spreadsheet that contains the requested information. This data is proprietary and subject to copyright protections. If it were to be publicly disclosed, EKPC would be placed at a disadvantage

in the market to other entities who could exploit the information for commercial gain by getting insights into EKPC's positions and strategies. It would also make it difficult for EKPC to be able to utilize other such proprietary modeling programs from third parties who would fear that their intellectual property would be compromised.

4. Collectively, the information described above is designated as the "Confidential Information" for which protection is sought under KRS 61.878 and other applicable law. Disclosure of the Confidential Information would permit an unfair commercial advantage to other entities who could exploit the information to the detriment of EKPC, its Owner-Members and their end-use retail members. If disclosed, the Confidential Information would also give market participants, competitors and other entities insights into the anticipated capacity needs, projected costs and revenues, present costs of fuel and other sensitive information.

5. The Kentucky Open Records Act, and specifically KRS 61.878(1)(c)(1), protects "records confidentially disclosed to an agency or required by an agency to be disclosed to it, 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." 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). If disclosed, the Confidential Information within the Data Request Responses would give market participants and competitors insights into the inner-workings and decision-making strategies of EKPC. In addition, the information concerns critical electric generating infrastructure and is further protected from public disclosure under KRS 61.878(1)(m). Accordingly, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

6. The Confidential Information consists of proprietary information that is retained by EKPC on a “need-to-know” basis. The Confidential Information 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.

7. EKPC does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure agreement, to intervenors with a legitimate interest in reviewing same for the sole purpose of participating in this case. EKPC reserves the right to object to providing the Confidential Information to any intervenor if said provision could result in potential liability or competitive harm to EKPC under any Confidentiality Agreement, Non-Disclosure Agreement or other obligation.

8. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing separately under seal one (1) unredacted copy of the Confidential Information. No highlighted or redacted version is being filed since EKPC is requesting confidential treatment for the entire Excel spreadsheet.

9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC respectfully requests that the Confidential Information identified in this Motion be withheld from public disclosure for ten (10) years.

10. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, EKPC will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10).

WHEREFORE, on the basis of the foregoing, EKPC respectfully requests that the Commission classify and protect as confidential the Confidential Information described herein and as set forth above.

This 20th day of January, 2023.

Respectfully submitted,



L. Allyson Honaker
HONAKER LAW OFFICE, PLLC
1795 Alysheba Way, Suite 6202
Lexington, KY 40509
(859) 368-8803
allyson@hloky.com

Counsel for East Kentucky Power Cooperative, Inc.

CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission on January 20, 2023; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that pursuant to prior Commission Orders, no paper copies of this filing will be made.



Counsel for East Kentucky Power Cooperative, Inc.