

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic INVESTIGATION OF)
JURISDICTIONAL STATUS OF EAST)
KENTUCKY MIDSTREAM, LLC, AND OF)
ITS COMPLAIANCE WITH KRS CHAPTER)
278, 807 KAR CHAPTER 005, AND 49 CFR)
PARTS 191 AND 192)

Case No.
2022-00238

Motion for Confidential Treatment of Information

East Kentucky Midstream, LLC (“EKM”) respectfully submits this Motion pursuant to 807 KAR 5:001, § 13, for confidential treatment of certain information filed concurrently with its Response to the Commission Staff’s Post Deposition Request for Information in this case. In support of this Motion, EKM states as follows:

1. On this date, EKM filed with the Commission its Response to the Staff’s post deposition data requests (“PD PSC __”).

2. EKM seeks confidential treatment for the critical infrastructure information provided in response to PD PSC 01 and filed completely under seal as attachments PD 01-0001 through 0047. These are topography maps for the KZ lines, A lines, and C line (hereinafter “Maps”).

3. KRS 61.878(1)(m)(1) protects “[p]ublic records the disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability in preventing protecting against, mitigating, or responding to a terrorist act....,” and specifically exempts from public disclosure certain records pertaining to public utility critical systems. *See* KRS 61.878(1)(m)(1)(f).

4. The Maps include identifications and depictions of certain critical energy infrastructure necessary to transmit natural gas in the region. If these are disclosed the information could be utilized to commit or further a criminal or terrorist act, disrupt critical public utility systems, and/or intimidate or coerce the civilian population. Disclosure of the Maps could also result in the disruption of innumerable other infrastructure systems which relate to, or rely upon, the safe and reliable provision of natural gas. Moreover, disclosure of the Maps could have a reasonable likelihood of threatening public safety. Put plainly, maintaining the confidentiality of the Maps relating to critical energy infrastructure is necessary to protect the interests of EKM, its customers, and the region at large.

5. The Maps contain proprietary information that is retained by EKM on a “need-to-know” basis and is not publicly available. The Maps are distributed within EKM only to those employees who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

6. EKM does not object to limited disclosure of the Maps described herein, pursuant to an acceptable confidentiality and nondisclosure agreement, to parties in this proceeding with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

7. If the Commission’s tentative assessment is that any of the information identified herein is not exempt from disclosure as confidential commercial information, it must hold an evidentiary hearing to protect EKM’s due process rights and permit an opportunity to create a complete record enabling the Commission to decide this confidentiality request.

8. In compliance with 807 KAR 5:001 § 13(2)(a)(3), EKM is filing one copy of the unredacted topography maps separately under seal. EKM is requesting confidential treatment for the entire document and therefore no highlighting is contained in the documents and no redacted

copy is being tendered. The unredacted copies are filed under seal pursuant to the instructions regarding confidential filings in the 3/24/20 Order issued in KY. PSC Case No. 2020-00085.

9. Section 13(2)(a)(2) of 807 KAR 5:001 provides that a motion for confidential treatment shall state the time period in which the material should be treated as confidential and the reasons for this time period. EKM respectfully submits that the material treated as confidential indefinitely in the light of the regulatory requirements set forth by 807 KAR 5:001, § 4(10)(a).

WHEREFORE, EKM respectfully requests that the Commission grant confidential treatment of the information described herein and filed entirely under seal.

Respectfully submitted,

/s/ Kathryn A. Eckert

Jason R. Bentley

Kathryn A. Eckert

McBrayer PLLC

201 East Main St., Suite 900

Lexington, KY 40507

(859) 231-8780

jbentley@mmlk.com

keckert@mcbrayerfirm.com

Counsel for East Kentucky Midstream LLC