

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC APPLICATION OF EAST)
KENTUCKY POWER COOPERATIVE, INC.)
FOR A (1) CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY FOR)
THE CONSTRUCTION OF TRANSMISSION)
FACILITIES IN MADISON COUNTY)
KENTUCKY; (2) DECLARATORY ORDER)
CONFIRMING THAT A CERTIFICATE)
OF PUBLIC CONVENIENCE AND)
NECESSITY IS NOT REQUIRED FOR)
CERTAIN FACILITIES)**

CASE NO.
2022-00314

MOTION FOR CONFIDENTIAL TREATMENT

Comes now, East Kentucky Power Cooperative, Inc. (“EKPC”), by 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 attachments of EKPC to Commission Staff’s Post-Hearing Request for Information (“Staff’s Post-Hearing Request”) filed in the above-captioned proceeding, respectfully states as follows:

1. Contemporaneously with this Motion, EKPC has filed responses to Staff’s Post-Hearing Request which contain confidential, sensitive and proprietary information.
2. Specifically, EKPC has provided, as attachments to its responses to Staff’s Post-Hearing Request No. 1, certain documents that contain confidential energy/electric infrastructure information (“CEII”) which is considered confidential FERC protected documents and are not publicly accessible. In addition, EKPC has provided the Order

passed by the Richmond City Council regarding the option-to-purchase the property that has been the subject of this proceeding regarding the location of new industrial customers. The Richmond City Council voted to exercise the option-to-purchase to develop the property as an Industrial Megasite but has requested EKPC to keep the financial information contained in the Order confidential.

3. In addition, EKPC has provided as an attachment to its responses to Staff's Post-Hearing Request No. 3, its FERC Form 715. This document is also considered confidential CEII and is not publicly available. The items are referred to herein collectively as the "Confidential Information."

4. 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).

5. KRS 61.878(1)(c) 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." KRS 61.878(1)(c)(1); 807 KAR 5:001 8 Section 13(2)(a)(1). EKPC operates in a competitive environment in the wholesale power market and in the credit market. The Confidential Information is generally recognized as confidential or proprietary and public disclosure of the Confidential Information would permit an unfair commercial advantage to EKPC's competitors. *See* KRS 61.878(1)(c).

6. The Confidential Information consists of critical energy infrastructure and includes information relating to details about the generation and transmission of energy. This is highly confidential and sensitive information. This information could be useful to a person planning an attack on critical energy infrastructure and could pose a threat to public health and safety. In addition, the Confidential Information contains financial information of a third-party that has requested for EKPC to keep that information confidential.

7. The Confidential Information is proprietary information that is retained by EKPC on a “need-to-know” basis and that is not publicly available. 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.

8. There are no intervenors in this proceeding so limited disclosure of the Confidential Information described herein, pursuant to an acceptable confidentiality and nondisclosure agreement, is not applicable.

9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one (1) copy of the unredacted attachments separately under seal. EKPC is requesting confidential treatment of the entire documents pertaining to the CEII information so no highlighted version is being provided and no redacted version is being provided of those documents. However, the Order from the Richmond City Council is being tendered under seal with the confidential information highlighted and a redacted version is being filed in the public record.

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

11. 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 specific Confidential Information described herein for a period of ten years.

This 2nd day of February, 2023.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission on February 2, 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, East Kentucky Power Cooperative, Inc.