

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST)	
KENTUCKY POWER COOPERATIVE INC. FOR)	
APPROVAL TO AMEND ITS ENVIROMENTAL)	CASE NO.
COMPLIANCE PLAN AND RECOVER COSTS)	2023-00177
PURSUANT TO ITS ENVIROMENTAL)	
SURCHARGE, AND FOR ISSUANCE OF)	
CERTIFICATES OF PUBLIC CONVENIENCE)	
AND NECESSITY AND OTHER RELIEF)	

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 its responses to Commission Staff’s First Request for Information, and respectfully states as follows:

1. EKPC filed its Application in this matter on June 30, 2023. The Commission issued a deficiency letter on July 10, 2023 and a deficiency cured letter on that same day. The Commission then issued an Order on July 21, 2023, reinstating the same deficiency from its deficiency letter and deficiency cured letter from July 10, 2023. The Commission finally issued a deficiency cured letter on July 24, 2023 accepting EKPC’s Application for filing.
2. Commission Staff issued its initial data requests on August 15, 2023 and EKPC is filing its responses contemporaneously with this motion.

3. Commission Staff's First Request for Information ("Staff's First Request") Item

No. 31 states as follows:

From January 2017 through July 2023, provide a performance profile for each of the Cooper Station Generating Units that includes:

- a. Equivalent availability factor.
- b. Equivalent forced outage rate.
- c. North American Reliability Corporation (NERC) Generation Availability Data System (GADS) reports.
- d. List of the top 10 major availability detractors.
- e. Capacity factor.
- f. Heat rate.
- g. Variable production costs \$/MWH.
- h. Rated maximum load capability.
- i. Rated dependable minimum load capability.

4. Staff's First Request Item NO. 32 states as follows:

From January 2017 through July 2023, provide a summary of any forced outages at each of EKPC's generating facility and provide the associated root cause analysis for each.

5. Staff's First Request Item No. 50 states as follows:

From January 2017 through July 2023, provide a performance profile for each of the Spurlock Generating Units outlining the following:

- a. Equivalent availability factor.
- b. Equivalent forced outage rate.
- c. NERC GADS reports.
- d. List of the top 10 major availability detractors.
- e. Capacity factor.
- f. Heat rate.
- g. Variable production costs \$/MWH.
- h. Rated maximum load capability.
- i. Rated dependable minimum load capability.

6. In response to Staff's First Request Nos. 31c, 32 and 50c EKPC is providing the requested NERC GADS reports and other GADS information. Collectively, the information described above is designated as the "Confidential Information" for which protection is sought under KRS 61.878. Disclosure of the Confidential Information would permit an unfair commercial

advantage to third parties or present an unnecessary and unreasonable infringement upon EKPC's legitimate privacy concerns.

7. 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."

8. Furthermore, the Confidential Information contains copyrighted and proprietary information from a third-party. The GADS information is confidential in nature and subject to copyrights of someone other than EKPC. EKPC must make all reasonable efforts to protect the copyrights of these publications. Furthermore, this information is only available to paid subscribers and could be harmful to the provider if disclosed. Disclosure of this information could be a breach of EKPC's subscription as well as copyright infringement.

9. The Confidential Information consists of sensitive and 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.

10. 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 liability to EKPC under any Confidentiality Agreement or Non-Disclosure Agreement.

11. 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. EKPC is requesting confidential treatment of the entire documents and therefore the copy filed under seal does not contain any highlights. EKPC is also not filing a redacted copy for this reason.

12. 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 ten (10) years.

13. 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 for a period of ten (10) years.

This 29th day of August 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 August 29, 2023 and that there are no parties that the Commission has excused from participation by electronic means in this proceeding. Pursuant to prior Commission Orders, no paper copies of this filing will be made.



Counsel for East Kentucky Power Cooperative, Inc.