

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

ELECTRONIC TARIFF FILING OF EAST KENTUCKY)	
POWER COOPERATIVE, INC. AND ITS MEMBER)	CASE NO.
DISTRIBUTION COOPERATIVES FOR APPROVAL)	2024-00101
OF PROPOSED CHANGES TO THEIR QUALIFIED)	
COGENERATION AND SMALL POWER)	
PRODUCTION FACILITIES TARIFF)	

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 requests that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to an attachment filed in response to Commission Staff’s Third Request for Information (“Staff’s Third Request”). EKPC respectfully states as follows:

1. The Commission issued an Order establishing this case on April 19, 2024. On June 26, 2024, EKPC filed its responses to Commission Staff’s Second Request for Information (Staff’s Second Request) and a Motion for Confidential Treatment for an attachment provided in response to Staff’s Second Request, Item 1c. The attachment was an updated spreadsheet from Commission Staff’s First Request for Information (“Staff’s First Request) Item 3b.

2. In response to Staff’s Third Request, Item 2, EKPC is providing an updated version of the spreadsheet that EKPC petitioned for confidential treatment for at the time of filing the responses to Staff’s Second Request. This table contains startup costs, no load costs, fixed cost and O&M costs (i.e., all cost components that would be utilized by EKPC’s production cost and dispatch models).

3. Contemporaneously with this motion, EKPC is providing the attached spreadsheet, *CONFIDENTIAL – DR3 - R2 - CT-RICE Comparison Table 07232024.xlsx*, which contains EKPC’s combustion turbine fleet costing data. Data sources are provided within the footnotes of the revised table. A redacted table was provided and attached to EKPC’s responses, *REDACTED - DR3 - R2 - CT-RICE Comparison Table 07232024.xlsx*, which contains an update to the Table provided in Staff’s First Request, Item 3. Backup data supporting the start times is included in the second tab, *R1a - CT Start-Time*. The information and documents tendered by EKPC in response to Staff’s Third Request, Item 2 are being tendered only in unredacted form, with no highlights, filed under seal herewith since EKPC is requesting confidential protection of the entire table. This information is hereinafter referred to as the “Confidential Information.”

5. The Confidential Information is exempt from disclosure pursuant to KRS 61.878(1)(c). The information contained in the spreadsheet contains material that is generally recognized as confidential and if disclosed would result in commercial harm to EKPC, and its owner-members, since this information could be used by EKPC’s competitors to devise competitive bidding strategies that would impair EKPC’s ability to compete in the competitive energy market and would result in higher costs for EKPC and its owner-members. This information is commercially sensitive and proprietary.

6. The Confidential Information was developed by EKPC internally and is retained by EKPC on a “need-to-know” basis and is not publicly available. If disclosed, the Confidential Information would injure EKPC’s competitive position and business interest. These business injuries would likely translate into higher costs for EKPC and, by extension, detrimentally higher rates for EKPC’s owner-members. Thus, disclosure of the Confidential Information would be highly prejudicial to EKPC, EKPC’s owner-members and ultimately the end-users.

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.

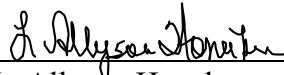
8. EKPC does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure agreement, to intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

9. EKPC is requesting confidential treatment for the redacted information of the CONFIDENTIAL - DR3 - R2 - CT-RICE Comparison Table 07232024.xlsx and therefore a redacted copy of the information is being provided in the public record of the proceeding in the attached spreadsheet, REDACTED - DR3 - R2 - CT-RICE Comparison Table 07232024.xlsx, which contains an update to the Table provided in Staff’s Third Request, Item 2.A highlighted version of the attachment is being filed under seal pursuant to this motion.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 twenty 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 twenty years from the date of entry of such an Order.

Dated this 2nd day of August, 2024

Respectfully submitted,

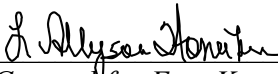


L. Allyson Honaker
Brittany Hayes Koenig
Heather S. Temple
HONAKER LAW OFFICE, PLLC
1795 Alysheba Way, Suite 1203
Lexington, Kentucky 40509
(859) 368-8803
allyson@hloky.com
brittany@hloky.com
heather@hloky.com

Counsel for East Kentucky Power Cooperative, Inc.

CERTIFICATE OF SERVICE

This is to certify that foregoing electronic filing was transmitted to the Commission on August 2, 2024; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, no paper copies of the filing will be made.



Counsel for East Kentucky Power Cooperative, Inc.