

**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 )	

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**MOTION FOR CONFIDENTIAL TREATMENT**

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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 certain documents filed in response to certain requests for information in the above-captioned proceeding, respectfully states as follows:

1. The Commission issued its Order establishing this case on April 19, 2024 and propounded data requests on May 14, 2024.
2. Commission Staff’s First Request for Information (Staff’s First Request) No. 8d requested the current Alliance for Cooperative Energy Services (“ACES”) Power Marketing, LLC contract. .
3. Contemporaneously with this motion, EKPC is providing the current ACES contract. The information and documents tendered by EKPC in response to Request No. 8d are being tendered only in unredacted form filed under seal herewith since EKPC is requesting confidential protection of the entire ACES contract. This information is hereinafter referred to as the “Confidential Information.”

4. The Confidential Information is exempt from disclosure pursuant to KRS 61.878(1)(c). The Confidential Information contains information for a contract that was negotiated with ACES to provide energy management support for EKPC. The contract addresses the services that will be delivered in two main areas: 1) Trading and Counterparty Controls and 2) Risk Policies II Portfolio Strategy and Management. Disclosure of this information 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.

5. 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.

6. 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.

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 the same for the sole purpose of participating in this case.

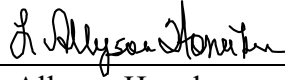
8. EKPC is requesting confidential treatment for the entirety of the ACES contract and therefore a redacted copy of the information is not being provided in the public record of the proceeding. In addition, the ACES contract that is being filed under seal does not contain highlighted information because the entirety of the ACES contract is being requested to be treated as confidential.

9. 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 29<sup>th</sup> day of May, 2024.

Respectfully submitted,



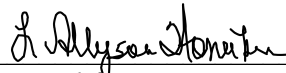
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**CERTIFICATE OF SERVICE**

This is to certify that foregoing electronic filing was transmitted to the Commission on May 29, 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.



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*Counsel for East Kentucky Power Cooperative, Inc.*