

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC APPLICATION OF EAST)
KENTUCKY POWER COOPERATIVE, INC.)
FOR CERTIFICATES OF PUBLIC)
CONVENIENCE AND NECESSITY AND)
SITE COMPATABILITY CERTIFICATES)
FOR THE CONSTRUCTION OF A 96 MW)
(NOMINAL) SOLAR FACILITY IN MARION)
COUNTY, KENTUCKY AND A 40 MW)
(NOMINAL) SOLAR FACILITY IN FAYETTE)
COUNTY, KENTUCKY AND APPROVAL OF)
CERTAIN ASSUMPTION OF EVIDENCES)
OF INDEBTEDNESS RELATED TO THE)
SOLAR FACILITIES AND OTHER RELIEF)**

CASE NO.
2024-00129

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 items contained in its Application, and respectfully states as follows:

1. EKPC is filing this contemporaneously with this motion, its Application for issuance of Certificates of Public Convenience and Necessity (“CPCN”) for the construction of two solar facilities, issuance of Site Compatibility Certificates, approval of the assumption of evidences of indebtedness (lease agreements) and other relief.

2. As part of its Application, EKPC is providing the non-winning bids received in response to its Requests for Proposal (“RFP”). These bids are contained in Exhibit 2, Direct

Testimony of Julia J. Tucker, Attachment JJT-3. Attachment JJT-3 also includes an evaluation of the bids received.

3. Further, EKPC is tendering certain lease agreements arising from and relating to the Northern Bobwhite Project that it proposes to assume. The leases include financial terms between the lessors and the original lessees of the property. This information is commercially sensitive and proprietary information negotiated between third parties.

4. The information described above is collectively referred to 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.

5. 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.” EKPC operates in a competitive environment. The Confidential Information is generally recognized as confidential and proprietary and public disclosure of the Confidential Information would permit an unfair commercial advantage to EKPC’s competitors.

6. The Confidential Information consists of information about bids received from third-party vendors for the projects described in the Application in response to EKPC’s RFP. The Confidential Information also includes cost comparisons of the bids received and other details about the solar projects in the third-party bids. If the Confidential Information is disclosed, it could hinder EKPC’s ability to receive bids for future RFPs. This could result in EKPC receiving fewer

bids and ultimately having to pay a higher cost for products in the future which would cause harm to EKPC and its members.

7. Moreover, the lease agreements at issue in this case relate to many, if not all, of the same properties for which a Construction Certificate was issued by the Kentucky State Board on Electric Generation and Transmission Siting in Case No. 2020-00208. On information and belief, EKPC understands that confidential treatment has previously been afforded to these leases by the Siting Board.¹

8. 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.

9. 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.

10. 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.

¹ See *In the Matter of the Electronic Application of Northern Bobwhite Solar LLC for a Certificate of Construction for an Approximately 96 Megawatt Merchant Solar Electric Generating Facility in Marion County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*, Order, Case No. 2020-00208 (Ky. Siting Board Sept. 27, 2021).

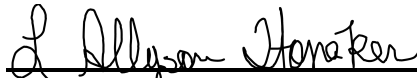
11. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten (10) years.

12. 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 26th day of April 2024.

Respectfully submitted,

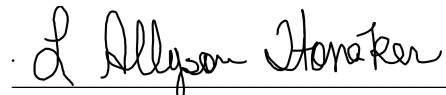


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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission on April 26, 2024 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.