

**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**

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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 for its motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to the Phase 1 Environmental Site Assessment Report, and respectfully states as follows:

1. EKPC filed 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 on April 26, 2024.

2. As part of its Responses to Lafayette-Fayette Urban County Government's ("LFUCG") Supplemental Requests for Information filed on July 19, 2024, Response 21a, EKPC committed to providing the 2024 Phase 1 Environmental Site Assessment Report as it had not been completed at the time of the filing of the response.

3. The 2024 Phase 1 Environmental Site Assessment Report has now been completed and EKPC is tendering the internal report for filing under seal of confidential treatment.

4. The report at issue is an internal report that would not normally be made public. The report is the work product of a third-party contracted by EKPC, including commercially sensitive maps, measurements, and comprehensive analysis of a broad number of elements weighed in business and project decisions. The report also addresses proposals not yet fully developed and exposure of these details would also permit an unfair commercial advantage. The report contains information that is commercially sensitive and proprietary analysis of information prepared by third parties that is generally recognized as confidential and proprietary.

5. 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.

6. 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.

7. 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.

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 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.

9. 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.

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 (10) 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 Confidential Information described herein for a period of ten (10) years.

This 25<sup>th</sup> day of October 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 October 25, 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.



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*Counsel for East Kentucky Power Cooperative, Inc.*