

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>AN ELECTRONIC EXAMINATION OF THE</b>	)	
<b>APPLICATION OF THE FUEL ADJUSTMENT</b>	)	<b>CASE NO.</b>
<b>CLAUSE OF EAST KENTUCKY POWER</b>	)	<b>2024-00137</b>
<b>COOPERATIVE, INC FROM NOVEMBER 1,</b>	)	
<b>2022 THROUGH APRIL 30, 2023</b>	)	

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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 requests for information in the above-captioned proceeding, respectfully states as follows:

1. The Commission issued its Order establishing this case on August 2, 2024, and included the initial set of requests for information to EKPC as an Appendix to that Order. On September 9, 2024, Commission Staff’s Second Request for Information (Staff’s Second Request) was issued and EKPC is filing responses contemporaneously with this motion.

2. The response to Staff’s Second Request, Item 3 required EKPC to provide information pertaining to EKPC’s hourly energy purchased, the day ahead/real time locational marginal price (“LMP”), the hourly bids for EKPC’s generation units, the price PJM called for each unit, and the hourly generation costs for EKPC’s generation units. This information is hereinafter referred to as the “Confidential Information.”

3. The Confidential Information is exempt from disclosure pursuant to KRS 61.878(1)(c). The Confidential Information is retained by EKPC on a “need-to-know” basis and is not publicly available. The document is commercially sensitive and proprietary and could be used by competitors to their advantage in the PJM energy market. The disclosure of this information could potentially harm EKPC’s competitive position in the marketplace to the detriment of EKPC and ultimately the end use customers. Additionally, this type of information has been granted confidential treatment by the Commission in the past.<sup>1</sup>

4. 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.

5. 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.

6. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC is filing one copy of the Confidential Information separately under seal. The documents being filed under seal are not highlighted because confidential treatment is being requested for the entirety of the

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<sup>1</sup> Case No. 2021-00293, *An Electronic Examination of the Application of the Fuel Adjustment Clause of East Kentucky Power Cooperative, Inc. from November 1, 2020 through April 30, 2021*, December 8, 2023 Order (Ky. PSC Dec. 17, 2023).

documents. Since EKPC is requesting confidential protection for the entirety of the documents a redacted copy is not being provided in the public record; however, the filing of the Confidential Information is noted in the public version of EKPC's response to Request 3.

7. 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 an indefinite period because the manual and policy are updated periodically and will remain commercially sensitive.

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 an indefinite period from the date of entry of such an Order.

This 23<sup>rd</sup> day of September 2024.

Respectfully submitted,

*Heather S. Temple*

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**CERTIFICATE OF SERVICE**

This is to certify that the electronic filing was transmitted to the Commission on September 23, 2024 and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 no paper copies of this filing will be made.

*Heather S. Temple*

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*Counsel for East Kentucky Power Cooperative, Inc.*