

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF)	
EAST KENTUCKY POWER COOPERATIVE,)	
INC. FOR 1) A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO)	2024- 00310
CONSTRUCT A NEW GENERATION)	
RESOURCE; 2) A SITE COMPATIBILITY)	
CERTIFICATE; AND 3) OTHER GENERAL RELIEF)	

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 certain documents filed in response to the Joint Intervenors’ Third Request for Information (Joint Intervenors’ Third Request), and respectfully states as follows:

1. On September 20, 2024, EKPC filed an application for a Certificate of Public Convenience and Necessity (“CPCN”) to construct a new generation resource and for a Site Compatibility Certificate for the project. The Commission established a procedural schedule for the processing of this matter and Joint Intervenors’ Third Request was issued on February 6, 2025.
2. EKPC initially filed a response to Joint Intervenors’ Third Request on February 20, 2025. Included in the “Instructions” paragraph 2 of the request for information there is language

indicating that the requests are ongoing and if there is an additional information EKPC is to supplement its prior response.¹

3. Contemporaneously with this Motion, EKPC is providing an updated response to Joint Intervenors' Third Request, Item 9. This request required EKPC to provide the National Environmental Policy Act ("NEPA") Environmental Assessment. When EKPC filed its original response to Joint Intervenors' Third Request, Item 9, EKPC provided an environmental assessment that was provided to United States Department of Agriculture ("USDA") Rural Utility Service ("RUS") on February 11, 2025. Since that time, EKPC submitted an updated Environmental Assessment to RUS on March 7, 2025, which is being filed with this Motion.

4. This updated Environmental Assessment is referred to herein as the "Confidential Information" for which protection is sought pursuant to KRS 61.878(1)(c)(1). 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 applicable precedent exempts the Confidential Information from disclosure, including KRS 61.878(1)(c)(1); *Zink v. Department of Workers Claims, Labor Cabinet*, 902 S.W.2d 825 (Ky. App. 1994); *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). As stated above, the public disclosure of the Confidential Information would potentially harm EKPC's competitive position in the marketplace which would be to the detriment of EKPC. Additionally, the Confidential Information is publicly unavailable, and its confidentiality is critical to EKPC's effective execution of business decisions and strategy. For these reasons, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

¹ Second Supplemental Requests for Information of Joint Intervenors (filed February 6, 2025).

6. EKPC is requesting confidential treatment of the updated response to Joint Intervenors' Third Request, Item 9 pursuant to KRS 61.878(1)(c)(1) because the information is not publicly available until RUS releases the information and if publicly filed before that time would give competitors an unfair commercial advantage. EKPC expects RUS to publish the Environmental Assessment on March 12, 2025, at which point the Environmental Assessment would no longer be confidential.

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 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.

8. 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. This document does not contain highlights because confidential protection is requested for the entirety of the document. In the public record, EKPC is noting the filing of confidential information.

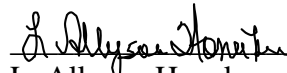
9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC respectfully requests that the Confidential Information be withheld from public disclosure only until March 12, 2025, when RUS will publish the document and it will no longer be subject to confidential treatment.

10. 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 until March 12, 2025.

This 10th day of March 2025.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission on March 10, 2025, 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.