

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 Commission Staff’s First Request for Information (Staff’s First 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 Staff’s First Request was issued on October 28, 2024.

2. Contemporaneously with this Motion, EKPC is providing its responses to Staff’s First Request. Staff’s First Request Item 1(a) required EKPC to provide its Long Term Load Forecast (“LTLF”) and its Owner-Members load forecasts. Staff’s First Request Item 1(c) required EKPC to provide the 2023 Itron SAE Update. These items are referred to herein

collectively 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.

3. 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.

4. The Confidential Information in the Response to Staff’s First Request Item 1(a) contains EKPC’s LTLF and its Owner-Members load forecasts. EKPC is requesting confidential treatment of Section 4 – Key Assumptions of the LTLF. EKPC is also requesting confidential treatment of the Key Assumptions of the Owner-Members load forecasts also provided in response to Item 1(a). EKPC is requesting confidential treatment for this information because this information contains the assumptions used to create EKPC’s models. If this information is disclosed competitors would have an unfair commercial advantage because they would gain the ability to duplicate EKPC’s models.

5. The Confidential Information in the Response to Staff’s First Request Item 1(c) contains the 2023 Itron SAE Update. EKPC is requesting confidential treatment for this

information because it is confidential and proprietary to Itron and EKPC cannot disclose this information. Additionally, if the modeling data was disclosed EKPC's competitors would have an unfair commercial advantage in know how EKPC prepares its load forecast.

6. 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.

7. 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. In the public record, EKPC is filing a copy of the documents for the response to Staff's First Request Item 1(a) in redacted form and a copy of the documents with the confidential information highlighted. EKPC is request confidentiality for the entirety of the Attachment filed in response to Staff's First Request Item 1(c) so no copy is filed in the public record and the unredacted copy does not contain highlights.

8. 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 an indefinite period.

9. 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 an indefinite period.

This 12th day of November 2024.

Respectfully submitted,

Heather S. Temple

L. Allyson Honaker
Brittany Hayes Koenig
Heather S. Temple
HONAKER LAW OFFICE, PLLC
1795 Alysheba Way, Suite 1203
Lexington, KY 40509
(859) 368-8803
allyson@hloky.com
brittany@hloky.com
heather@hloky.com

Counsel for East Kentucky Power Cooperative, Inc.

CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission on November 12, 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.

Heather S. Temple

Counsel for East Kentucky Power Cooperative, Inc.