

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 Second Request for Information (Staff’s Second 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 Second Request was issued on December 2, 2024.

2. Contemporaneously with this Motion, EKPC is providing its responses to Staff’s Second Request. Staff’s First Request Item 18 required EKPC to provide information regarding contracts EKPC has negotiated for property where the property will be located. The attachment to this response and the information in the response are referred to herein collectively as the

“Confidential Information” for which protection is sought pursuant to KRS 61.878(1)(a) and 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)(a); 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 Second Request, Item 18 consists of a map with owner names identified on parcels of land. The response also contains names of landowners and amounts negotiated for land to be purchased for the project. EKPC is requesting the information regarding the contracts and the map be granted confidential protection pursuant to KRS 61.878(1)(c)(1) because the contracts have not been executed at this point. If EKPC is forced to disclose this information before the contracts are executed, it will face a commercial disadvantage because others will know the negotiated prices. Additionally, EKPC believes the names of the property owners should be granted confidential treatment pursuant to

KRS 61.878(1)(a) because if disclosed it would be an unwarranted invasion of these individuals' personal privacy.

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 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.

6. 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 with the information highlighted that is contained in the response to Staff's Second Request, Item 18. In the public record, EKPC is filing a redacted version of the response to Staff's Second Request, Item 18. EKPC is also filing one copy of the attachment without highlights because confidential treatment is requested for the entirety of the document.

7. 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 or until the contracts have been fully executed.

8. 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 ten (10) years or until the contracts are fully executed.

This 16th day of December 2024.

Respectfully submitted,

Heather S. Temple

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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission on December 16, 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.