

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

**In the Matter of:**

|  |   |                   |
|--|---|-------------------|
| <b>THE ELECTRONIC APPLICATION OF</b>       | ) |                   |
| <b>EAST KENTUCKY POWER COOPERATIVE,</b>    | ) |                   |
| <b>INC. FOR 1) CERTIFICATES OF PUBLIC</b>  | ) | <b>CASE NO.</b>   |
| <b>CONVENIENCE AND NECESSITY TO</b>        | ) | <b>2024-00370</b> |
| <b>CONSTRUCT GENERATION RESOURCES;</b>     | ) |                   |
| <b>2) A SITE COMPATIBILITY CERTIFICATE</b> | ) |                   |
| <b>RELATING TO THE SAME; 3) APPROVAL</b>   | ) |                   |
| <b>OF DEMAND SIDE MANAGEMENT TARRIFS;</b>  | ) |                   |
| <b>AND 4) OTHER GENERAL RELIEF</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 for its motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to certain information filed in supplemental responses to Appalachian Citizens Law Center, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and the Mountain Association’s (collectively “Joint Intervenors”) First Request for Information (“Joint Intervenor’s First Request”).

1. On November 20, 2024, EKPC filed an application for a Certificate of Public Convenience and Necessity (“CPCN”) to construct new generation resources, a Site Compatibility

Certificate for one of the projects, approval of demand side management (“DSM”) tariffs, and other general relief.<sup>1</sup> On December 20, 2024, Joint Intervenors’ First Request with issued.

2. In supplemental response to the Joint Intervenors’ First Request Item 4, EKPC is providing an Excel spreadsheet that contains the O&M costs for the Cooper co-fire project. The previously filed response to Joint Intervenors’ Frist Request Item 4 only contained the information for the combined cycle gas turbine (“CCGT”) portion of the project. The Spurlock co-fire O&M calculations were previously filed in response to Joint Intervenors’ First Request Item 39. This spreadsheet is referred to herein as the “Confidential Information” for which protection is sought under 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.

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<sup>1</sup> The Application was deemed completed and accepted for filing on November 25, 2024.

4. In this supplemental response to the Joint Intervenor's First Request, Item 4, EKPC is providing an Excel document that calculates the non-fuel O&M savings, reduction of variable operating costs of burning a 50% natural gas blend, and reduction of maintenance cost of burning of a 50% natural gas blend for the Cooper co-fire project. EKPC believes this information should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1). If this information is disclosed competitors would know the advantages EKPC believes will be achieved from the co-firing projects and could use this information to their advantage they would also know the projected O&M numbers which could cause harm to EKPC, its owner-members and ultimately the owner-members' end use members.

5. 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.

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 Excel files being provided in response to Joint Intervenor's First Request, Item 4. The Excel files are not being highlighted because confidential

treatment is being sought for the entirety of the file.. EKPC is noting in the public version of the filing the confidential response, but no Excel attachment is being filed.

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 13<sup>th</sup> day of February 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 February 13, 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.

  
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*Counsel for East Kentucky Power Cooperative, Inc.*