

**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 a portion of its Application, and respectfully states as follows:

1. EKPC is filing this motion contemporaneously with its 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.

2. In support of these requests EKPC is providing numerous exhibits and attachments. These include:

- Exhibit 3, Direct Testimony of Julia Tucker (“Tucker Direct Testimony”), Attachment JJT-2;

- Exhibit 3, Tucker Direct Testimony, Attachment JJT-3;
- Exhibit 4, Direct Testimony of Brad Young (“Young Direct Testimony”), Attachment BY-1, Table 7-1 and Appendix R to the Cooper Station – 2x1 Combined Cycle Project Scoping Report (“Cooper Combined Cycle PSR”);
- Exhibit 4, Young Direct Testimony, Attachment BY-2, Table 7-1 and Appendix R to the Cooper Station Unit 2 Co-Fire Project Scoping Report (“Cooper Co-Fire PSR”); and
- Exhibit 4, Young Direct Testimony, Attachment BY-3, Appendix R to the Spurlock Station Units 1-4 Co-fire Project Scoping Report (“Spurlock Co- Fire PSR”).

These items are referred to herein collectively as the “Confidential Information” for which protection is sought under 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 Tucker Direct Testimony, Attachment JJT-2 contains the 2025-2039 Load Forecast (“LTLF”). The LTLF contains EKPC’s projections about its energy needs into the future. This information is critical to EKPC’s business strategy and disclosure would cause an unfair commercial advantage to competitors in the energy marketplace.

5. The Confidential Information in the Tucker Direct Testimony, Attachment JJT-3 contains the historic load information of a large customer on EKPC’s system. This information is confidential to both EKPC and the large customer and if disclosed would be an invasion of privacy pursuant to KRS 61.878. Additionally, if the Confidential Information is disclosed it could give competitors an unfair commercial advantage by having knowledge of the demand of a large industrial customer on EKPC’s system.

6. The Confidential Information in the Young Direct Testimony, Attachment BY-1, Table 7-1 and Appendix R of the Cooper Combined Cycle PSR; Attachment BY-2, Table 7-1 and Appendix R in the Cooper Co-Fire PSR; and, Attachment BY-3, Appendix R in the Spurlock Co-Fire PSR contain cost estimates for the projects. If these cost estimates are disclosed, it could place EKPC at a competitive disadvantage because other parties would know what EKPC is prepared to pay for the materials to construct the new generation resource and raise prices which would result in EKPC having to pay a higher cost for the products which would cause harm to EKPC and its members.

7. 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.

8. 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.

9. 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 confidential information highlighted. In the public record, EKPC is providing Tucker Direct Testimony, Attachment JJT-3 EKPC; Young Direct Testimony, Attachment BY-2, Cooper PSR Table 7-1 and Appendix R; and Attachment BY-3, Spurlock PSR Appendix R a redacted copy of the documents with the confidential information noted. EKPC is not filing a public version, or highlighting, the Tucker Direct Testimony, Attachment JJT-2 because EKPC is requesting confidential treatment of the entirety of the documents.

10. 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 except the winning bid when the contract is fully executed.

11. 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 20<sup>th</sup> day of November 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 November 20, 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*

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*Counsel for East Kentucky Power Cooperative, Inc.*