

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF)	
EAST KENTUCKY POWER COOPERATIVE,)	
INC. FOR 1) CERTIFICATES OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO)	2024-00370
CONSTRUCT GENERATION RESOURCES;)	
2) A SITE COMPATIBILITY CERTIFICATE)	
RELATING TO THE SAME; 3) APPROVAL)	
OF DEMAND SIDE MANAGEMENT TARRIFS;)	
AND 4) 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 information filed in response to Commission Staff’s Post-Hearing Request for Information (“Staff’s Post-Hearing Request”) and Appalachian Citizens Law Center, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and the Mountain Association’s (collectively “Joint Intervenors”) Post-Hearing Request for Information (“Joint Intervenors’ Post-Hearing 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.¹ After the April 21, 2025 Hearing, Commission Staff and the Joint Intervenors' issued post-hearing requests for information.

2. Joint Intervenors' Post-Hearing Request, Item 2 required EKPC to provide the contract it has executed with Siemens. The attachment provided in response to Joint Intervenors' Post-Hearing Request, Item 2 is herein collectively 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)(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. In response to the Joint Intervenors' Post-Hearing Request, Item 2, EKPC is providing the executed contract with Siemens for the gas turbines necessary for the project in this matter. Section 5 of the Reservation Agreement contains a clause that gives Siemens the authority to determine if the contents of the contract can be disclosed. Siemens has given permission for the contract to be disclosed to the Commission and parties that have entered into a confidentiality

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

agreement with EKPC. Siemens has not given permission for the contract to be disclosed to the general public. Due to this clause, EKPC believes the contract meets the criteria for confidential treatment pursuant to KRS 61.878(1)(c). Additionally, the contract contains provisions that are not related to the issues in this proceeding. Siemens has redacted that portion of the contract.

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 each of the attachments. These attachments are not being highlighted because confidential treatment is being sought for the entirety of the documents. EKPC is noting in the public version of the filing all of the confidential responses.

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 the 9th day of May 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 May 8, 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.

Heather S. Temple

Counsel for East Kentucky Power Cooperative, Inc.