

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. Staff's Post-Hearing Request, Item 3 required EKPC to provide contracts related to gas pipelines. Staff's Post-Hearing Request, Item 13 required EKPC to provide information regarding natural gas prices. The Joint Intervenor's Post-Hearing Request, Item 3 required EKPC to provide financial forecasting data. Joint Intervenors' Post-Hearing Request, Item 4 required EKPC to provide annual reports filed in Case No. 2012-00169. Joint Intervenor's Post-Hearing Request, Item 8 required EKPC to provide load served in various PJM Interconnection LLC ("PJM") transmission zones. The attachments provided in response to these items are referred to 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)(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

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

Information satisfies both the statutory and common law standards for affording confidential treatment.

4. In response to Staff's Post-Hearing Request, Item 3, EKPC is providing attachments that contain the precedent agreements with Columbia Gulf Transmission, LLC. EKPC is requesting confidential treatment of these agreements pursuant to KRS 61.878(1)(c)(1) because the precedent agreements contain contract terms and pricing information that was the result of an arm's length negotiation. If the terms and pricing of the contracts are released, it can cause competitive harm to Columbia Gulf Transmission, LLC as they negotiate these same types of agreements with other parties. In addition, release of this information could also place EKPC in a competitive disadvantage if the contract terms and pricing information were disclosed at this stage. Other gas transportation companies would learn the negotiated prices and would be able to use the information to the detriment of EKPC in future negotiations.

5. In response to Staff's Post-Hearing Request, Item 13, EKPC is providing an attachment that contains the forecasted natural gas prices EKPC utilized in modeling the project as well as the contracted natural gas price including fixed costs of the pipeline. EKPC is requesting confidential treatment of this information pursuant to KRS 61.878(1)(c)(1). If the forecasted estimates and the methodology is disclosed, EKPC would face an unfair commercial disadvantage. Additionally, the contracted prices are not finalized and disclosure at this point would allow non-parties the access the information. If the contracts are ultimately not executed, this would give other bidders a competitive advantage.

6. In response to Joint Intervenors' Post-Hearing Request, Item 3, EKPC is providing all inputs to its 2024 Financial Forecast. This information is highly sensitive and confidential information that contains forecasted financial information for EKPC. If this information is made

publicly available it could cause potential harm to EKPC, its owner-members and ultimately the owner-members' end-use members. This information should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1).

7. In response to Joint Intervenors' Post-Hearing Request, Item 4, EKPC provided PJM Annual Reports for the years 2013-2024. EKPC is required to file the PJM Annual Report yearly in Case No. 2012-00169.² The Commission has granted confidential treatment for these reports yearly since that time. EKPC is requesting confidential treatment of these reports in this proceeding based upon the Commission's prior rulings these reports are confidential pursuant to KRS 61.878(1)(c)(1).

8. In response to Joint Intervenors' Post-Hearing Request, Item 8, EKPC provided an attachment that contains foreign demand on EKPC's transmission system for the years 2020-2025. EKPC is requesting confidential treatment of this information pursuant to KRS 61.878(1)(c)(1). If this information is disclosed EKPC, and the other utilities, would face an unfair commercial advantage. Additionally, the other utilities are not a party to this proceeding and it would be an unwarranted invasion of their privacy to disclose information regarding the other transmission systems and should be protected based upon KRS 61.878(1)(a).

9. 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.

² *Application of East Kentucky Power Cooperative, Inc. to Transfer Functional Control of Certain Transmission Facilities to PJM Interconnection LLC*, Case No. 2012-00169, December 21, 2012 Order (Ky. PSC December 21, 2012).

10. 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.

11. 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.

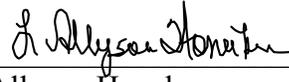
12. In accordance with the provisions of 807 KAR 5:001, Section 13(2), EKPC respectfully requests that the Confidential Information be withheld from public disclosure for an indefinite period.

13. 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 2nd day of May 2025

Respectfully Submitted,

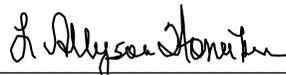


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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission on May 2, 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.



Counsel for East Kentucky Power Cooperative, Inc.