

**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 for certain documents tendered in response to Commission Staff’s First Request for Information (“Staff’s First Request”), and respectfully states as follows:

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, Staff’s First Request was issued and EKPC is tendering its responses contemporaneously with this Motion.

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

2. Specifically, EKPC is providing an Excel attachment in response to Staff's First Request, Item 19(a). This Excel attachment contains the modeling assumptions generated using the RTSim production cost modeling software. In response to Staff's First Request, Item 24, EKPC is providing an Excel attachment that contains the calculations that were utilized to determine the cost benefits of the proposed projects. In response to Staff's First Request, Item 25, EKPC is providing an Excel attachment that contains the capacity benefits based on BRA clearing prices. The response to Staff's First Request, Item 26(a) required EKPC to provide costs estimates for the project. Finally, the response to Staff's First Request, Item 26(b) required EKPC to provide cost estimates for the gas pipeline associated with the project. 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)(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 Excel attachment in response to Staff's First Request, Item 19(a) contains the modeling assumptions generated using the RTSim production cost modeling software. EKPC is requesting confidential treatment of this attachment pursuant to KRS 61.878(1)(c)(1) because disclosure of these modeling assumptions could be used for an unfair commercial advantage to competitors. Additionally, these modeling assumptions were created using a third-party proprietary product and EKPC cannot disclose this information.

5. The Confidential Information in the Excel attachment provided in response to Staff's First Request, Item 24, EKPC is providing the calculations that were utilized to determine the cost benefits of the proposed projects. EKPC is requesting confidential treatment of this information pursuant to KRS 61.878(1)(c)(1). If these cost benefits are disclosed now, while EKPC is still in the process of bidding and entering contracts, 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. This would alter the cost benefit assumptions that EKPC has provided to the Commission and would result in EKPC having to pay a higher cost for the products which would cause harm to EKPC and its members.

6. The Confidential Information in the Excel attachment provided in response to Staff's First Request, Item 25, contains the capacity benefits based on BRA clearing prices through 2026. Pursuant to KRS 61.878(1)(c)(1), if the capacity benefits are disclosed it would cause competitors to have an unfair commercial advantage because the information could be used to create an advantage in the marketplace.

7. The response to Staff's First Request, Item 26(a) and Item 26(b) required EKPC to provide costs estimates for the project and the gas pipeline. The response contains the estimates and information on how EKPC derived those estimates. EKPC is requesting confidential treatment

of the response to Item 26(a) and Item 26(b) pursuant to KRS 61.878(1)(c)(1) because if these estimates and the methodology for reaching these estimates were disclosed, EKPC would face an unfair commercial advantage. Bidders for labor and materials would know the amount EKPC believes the project will cost and could alter their bids accordingly.

8. 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.

9. 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.

10. 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 in Excel spreadsheets for responses to Items 19, 24, and 25. Since, EKPC is requesting confidential information for the entirety of the spreadsheets, the information is not highlighted. EKPC is redacting its public response to Item 26(a) and Item 26(b). However, since EKPC is requesting confidential treatment for the entirety of the response the version provided under seal is not being highlighted.

11. 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.

12. 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 3<sup>rd</sup> day of January 2025.

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 January 3, 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*

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*Counsel for East Kentucky Power Cooperative, Inc.*