

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC INTEGRATED RESOURCE)	CASE NO.
PLAN OF EAST KENTUCKY POWER)	2025-00087
COOPERATIVE, INC.)	

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 as responses to Commission Staff’s Third Request for Information (“Staff’s Third Request”), the Attorney General’s Second Information Request (“Attorney Generals Second Request”) and Sierra Club’s Second Information Request (“Sierra Club’s Second Request”).

1. On April 1, 2025, EKPC filed its 2025 Integrated Resource Plan (“IRP”). On May 16, 2025, the Attorney General’s Second Request and the Sierra Club’s Second Request were issued. EKPC is filing the responses to all requests contemporaneously with this Motion.

2. The requests included several items which involve information that is confidential and proprietary. The response to Staff’s Third Request, Item 11 includes the amount a third-party would charge for a study. The response to the Attorney General’s Second Request, Item 11 includes the PJM Interconnection, LLC (“PJM”) 2024 Annual Report. The response to the Attorney General’s Second Request, Item 12 includes savings realized from EKPC’s membership

in PJM. The response to the Sierra Club's Second Request, Item 1 contains EKPC's load forecast for 2020 and 2022. Collectively, the information described above is designated 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 and 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). The public disclosure of the Confidential Information would harm EKPC's competitive position in the marketplace by offering competitors insights into operating costs, savings, and forecasted load that are not otherwise publicly available and would be to the detriment of EKPC. Additionally, the Confidential Information is publicly unavailable. The confidentiality of this information 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 the response to Staff's Third Request, Item 11, EKPC is providing an estimate of the cost of having a third-party preform a report. EKPC believes this information should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1) because if this cost was disclosed it could harm EKPC's position in negotiating further contracts for third-party services.

5. In response to the Attorney General's Second Request, Item 11, EKPC is providing the 2024 PJM Annual Report. This report is provided yearly to the Commission and is consistently

granted confidential protection.¹ If this information is disclosed it could cause potential harm to EKPC, its owner members, and ultimately the owner-members' end-use members and create an unfair commercial advantage to competitors. This information should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1).

6. In response to the Attorney General's Second Request, Item 12, EKPC is providing the cost savings for membership in PJM. This information, if disclosed would give market participants and competitors insights into the savings realized by EKPC. Accordingly, this information should be kept confidential pursuant to KRS 61.878(1)(c)(1). Additionally, this information has been granted confidential treatment by the Commission consistently.²

7. In the response to Sierra Club's Second Request, Item 1, EKPC is providing its 2020 and 2022 load forecast. EKPC has been granted confidential treatment of its load forecasts previously.³ If this information is made publicly available, it could cause potential harm to EKPC, because it will disclose how EKPC models its load forecast, how accurate the forecasts are, and any potential new customers that will contribute to the load. This information should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1).

8. Overall, the Confidential Information consists of sensitive and proprietary information that is retained by EKPC on a "need-to-know" basis. The Confidential Information is

¹ *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) (EKPC is required to file the PJM Annual Report yearly in Case No. 2012-00169 and the Commission grants confidential treatment for these reports yearly.).

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) (EKPC is required to file the PJM Annual Report yearly in Case No. 2012-00169 and the Commission grants confidential treatment for these reports yearly.) *Also see Electronic Application of East Kentucky Power Cooperative, Inc. for 1) Certificates of Public Convenience and Necessity to Construct New Generation Resources; 2) For a Site Compatibility Certificate Relating to the Same; 3) Approval of Demand Side Management Tariffs; and 4) Other General Relief*, Case No. 2024-00370 (filed November 20, 2024).

³ Case No. 2024-00370, July 30, 2025 Order (Ky. PSC July 30, 2025).

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 each of the attachments, except the response to Staff's Third Request, Item 11. EKPC is filing the unredacted copy of Staff's Third Request, Item 11 with highlights. The additional documents 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.

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 the 28th day of August 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 August 28, 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.