

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2019 INTEGRATED RESOURCE)	CASE NO.
PLAN OF EAST KENTUCKY POWER)	2019-00096
COOPERATIVE, INC.)	

ORDER

On March 16, 2020, East Kentucky Power Cooperative, Inc. (EKPC) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for EKPC's responses to portions of Commission Staff's First Request for Information (Staff's First Request); the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention's First Request for Information (Attorney General's First Request); and Nucor Steel Gallatin's First Request for Information (Nucor's First Request). The designated materials are more specifically described as follows:

- EKPC's response to Staff's First Request, Item 2, which contains financial information from which competitors could discern EKPC's financial performance in PJM, which would allow competitors to manipulate offers or bids. EKPC states that public disclosure of the designated materials would result in commercial disadvantage, which would result in financial harm to EKPC and its owner members. EKPC requests that the designated materials be held confidential for ten years.
- EKPC's response to Staff's First Request, Item 14.a., which contains county level forecasts prepared by IHS Global Insights, Inc. EKPC maintains these

spreadsheets are used to prepare EKPC's load forecast and are subject to federal and international copyright protections. EKPC states disclosure of the designated materials would present an unnecessary and unreasonable infringement upon established copyright protections. EKPC requests that the designated materials be held confidential for ten years.

- EKPC's response to Staff's First Request, Item 21.b., which includes information on EKPC's strategies for procuring transmission rights. EKPC states disclosure of this information could severely limit EKPC's access to the market for transmission rights and could force EKPC into a situation where it must purchase firm point to point transmission service from only one entity at an inflated price. EKPC maintains disclosure of this information would be extremely valuable to those who would seek to gain an unfair commercial advantage over EKPC, which would result in financial harm to EKPC and its owner members. EKPC requests that the designated materials be held confidential for a period of ten years.

- EKPC's response to Staff's First Request, Item 23. Attachments, which contain proprietary data gathered as part of the appliance satisfaction survey, including the variables used to populate the survey data. EKPC states the attachments include commercially sensitive data and disclosure would therefore result in commercial disadvantage, which would result in harm to EKPC and its owner members. EKPC requests that the designated materials be held confidential for ten years.

- EKPC's response to Staff's First Request, Item 50, page 1, which contains projected capital costs for various resources and power purchase agreements. EKPC states that the public availability of this information would give an advantage to potential

bidders and suppliers should EKPC enter the market to either construct or lease new capacity or enter into power purchase agreements. Again, EKPC states that public disclosure of the designated materials would result in commercial disadvantage, which would result in financial harm to EKPC and its owner members. EKPC requests that the designated materials be held confidential for ten years.

- EKPC's response to Attorney General's First Request, Item 13, page 2, which contains copyrighted population forecasts from IHS Global Insights, Inc. regarding county specific population data used to to prepare EKPC's load forecast. EKPC maintains this data is deemed confidential and proprietary under KRS 61.878(1)(c) because it is useful in building EKPC's load forecast. EKPC requests the designated materials be held confidential for ten years.

- EKPC's response to Attorney General's First Request, Item 17, page 1, which contains an assessment of EKPC's generating facilities under Critical Infrastructure Protection Standards. EKPC states information regarding critical engery infrastructure is protected from public disclosure under KRS 61.878(1)(m). EKPC requests that the designated materials be held confidential indefinitely.

- EKPC's response to Attorney General's First Request, Item 21, pages 1 and 2, which contain dispatch costs and levelized cost of energy data for each of EKPC's generation facilities. EKPC maintains public disclosure of this information would give its competitors in the PJM market an unfair commercial advantage with regard to understanding the stack of EKPC's dispatchable resources and the EKPC's strategy for interacting in the wholesale market. EKPC requests the designated materials be held confidential for ten years.

- EKPC's response to Nucor's First Request, Item 4, page 1, which contains forecasted and actual capacity and demand reduction resources sold into the PJM market, including pricing and anticipated revenues. EKPC maintains this data is highly proprietary as it impacts the ability of EKPC to interact with the wholesale market, and if publicly disclosed could give competitors an unfair commercial advantage. EKPC requests the designated materials be held confidential for ten years.

Having considered the motion and the material at issue, the Commission finds that designated materials contained in Staff's First Request, the Attorney General's First Request, and Nucor's First Request are generally recognized as confidential or proprietary, and therefore meet the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(c)(1), and KRS 61.787(1)(m).

IT IS THEREFORE ORDERED that:

1. EKPC's motion for confidential protection for designated materials contained in Staff's First Request, the Attorney General's First Request, and Nucor's First Request is granted.

2. The designated materials contained in Staff's First Request, the Attorney General's First Request, and Nucor's First Request, with the exception of the designated materials contained in the Attorney General's First Request, Item 7, shall not be placed in the public record or made available for public inspection for ten years or until further Order of this Commission.

3. The designated materials contained in the Attorney General's First Request, Item 7, shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.

4. Use of the materials in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

5. EKPC shall inform the Commission if the materials in question become publicly available or no longer qualify for confidential treatment.

6. If a non-party to this proceeding requests to inspect the materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not expired, EKPC shall have 30 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If EKPC is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

7. The Commission shall not make the requested materials available for inspection for 30 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow EKPC to seek a remedy afforded by law.

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "J. B. Pinner". The signature is written in a cursive style with a large, sweeping underline.

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