

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EAST)	
KENTUCKY POWER COOPERATIVE, INC. FOR)	
1) CERTIFICATES OF PUBLIC CONVENIENCE)	
AND NECESSITY TO CONSTRUCT A NEW)	CASE NO.
GENERATION RESOURCES; 2) FOR A SITE)	2024-00370
COMPATIBILITY CERTIFICATE RELATING TO)	
THE SAME; 3) APPROVAL OF DEMAND SIDE)	
MANAGEMENT TARIFFS; AND 4) OTHER)	
GENERAL RELIEF)	

ORDER

This matter arises upon six motions for confidential treatment filed on November 20, 2024, January 3, 2025, January 10, 2025, January 31, 2025, February 13, 2025, and February 19, 2025, by East Kentucky Power Cooperative (EKPC) pursuant to 807 KAR 5:001, Section 13, and KRS 61.878. Each motion is individually addressed below. However, EKPC’s requests for confidential treatment of the REI summary and report were addressed in the final Order of this matter issued on July 3, 2025.

LEGAL STANDARD

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records “be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884.”¹ In support of its motions, EKPC argued for the application of three parts of KRS 61.878. KRS 61.878(1)(c)(1) provides an exception to the requirement for public disclosure for records that are “generally

¹ KRS 61.872(1).

recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.” KRS 61.878(1)(a) prevents disclosure of “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” Lastly, KRS 61.878(1)(m) protects “records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act.”

NOVEMBER 20, 2024 MOTION

In its motion, EKPC requested confidential protection for an indefinite period for highlighted portions related to information from IHS Global Inc. contained in the Direct Testimony of Julia Tucker (Tucker Direct Testimony), Attachment JJT-2, which contains the 2025-2039 Load Forecast (LTLF); and Attachment JJT-3, which contains highlighted information about historic load information of a large customer on EKPC’s system.²

The Tucker Direct Testimony, Attachment JJT-2, LTLF contains EKPC’s projections about its energy needs into the future, and EKPC argued that the information is critical to EKPC’s business strategy. Furthermore, EKPC asserted that disclosure would cause an unfair commercial advantage to competitors in the energy marketplace,³ which deserved protection pursuant to KRS 61.878(1)(c)(1). In the Tucker Direct Testimony, Attachment JJT-3, EKPC argued that it contains information confidential to both EKPC and a large customer, disclosure of which would be an invasion of privacy

² EKPC’s Motion for Confidential Treatment (filed Nov. 20, 2024) (Nov. 20, 2024 Motion) at 3.

³ EKPC’s Nov. 20, 2024 Motion at 3.

pursuant to KRS 61.878(1)(a).⁴ Additionally, EKPC asserted that disclosure of the demand of a large industrial customer on EKPC's system could give competitors an unfair commercial advantage, and should be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).⁵

EKPC additionally requested confidential protection for an indefinite period, except the winning bid when the contract is fully executed, for the Direct Testimony of Brad Young (Young Direct Testimony), Attachment BY-1, Table 7-1, and Appendix R of the Cooper Combined Cycle Project Scoping Report (PSR); Attachment BY-2, Table 7-1, and Appendix R in the Cooper Co-Fire PSR; and Attachment BY-3, Appendix R in the Spurlock Co-Fire PSR, pursuant to KRS 61.878(1)(c)(1). The Young Direct Testimony contains cost estimates for all three projects. EKPC argued that if these cost estimates are disclosed, 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, which would result in EKPC having to pay a higher cost for the products and ultimately cause harm to EKPC and its members.⁶

Having considered the motion and the material at issue, the Commission finds that the Tucker Direct Testimony, Attachment JJT-2 and JJT-3; Young Direct Testimony, Attachment BY-1, Table 7-1, and Appendix R of the Cooper Combined Cycle PSR; Attachment BY-2, Table 7-1 and Appendix R in the Cooper Co-Fire PSR; and Attachment BY-3, Appendix R in the Spurlock Co-Fire PSR should be afforded confidential treatment

⁴ EKPC's Nov. 20, 2024 Motion at 3.

⁵ EKPC's Nov. 20, 2024 Motion at 3.

⁶ EKPC's Nov. 20, 2024 Motion at 3.

for an indefinite period. Disclosure of Attachment JJT-2 could put EKPC at a commercial disadvantage; therefore, it meets the criteria for confidential treatment and should be exempted from public disclosure for an indefinite period pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(a), and KRS 61.878 (1)(c)(1). The Commission also finds the information contained in the Tucker Direct Testimony, Attachment JJT-3, could result in commercial harm to EKPC and would be an invasion of privacy to the customer. The Commission has previously found that information revealing customers' demand be granted confidential treatment.⁷ Therefore, the information meets the criteria for confidential treatment and should be exempted from public disclosure for an indefinite period pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(a), and KRS 61.878 (1)(c)(1).

In addition, the Commission finds that disclosure of the Young Direct Testimony, Attachment BY-1, Table 7-1, and Appendix R of the Cooper Combined Cycle PSR; Attachment BY-2, Table 7-1, and Appendix R in the Cooper Co-Fire PSR; and Attachment BY-3, Appendix R in the Spurlock Co-Fire PSR, could put EKPC at a commercial disadvantage. The Commission has previously found that protected capital costs should be granted confidential treatment.⁸ Therefore, the information meets the criteria for confidential treatment and should be exempted from public disclosure for a period of ten years pursuant to 807 KAR 5:001, Section 13 and KRS 61.878 (1)(c)(1).

⁷ See Case No. 2016-00335, *An Examination by the Public Service Commission of the Environmental Surcharge Mechanism of East Kentucky Power Cooperative, Inc. For the Six-Month Billing Period during June 30, 2016, and the Pass Through Mechanism for Its Sixteen Member Cooperatives* (Ky. PSC Feb. 20, 2017), Order.

⁸ Case No. 2021-000310, *Electronic 2023 Integrated Resource Plan of Big Rivers Electric Corp.*, (Ky. PSC May 9, 2024), Order.

JANUARY 3, 2025 MOTION

EKPC tendered responses to Commission Staff's First Request for Information (Staff's First Request) and requested that the confidential information in the following responses be withheld from public disclosure for an indefinite period. In response to Staff's First Request, EKPC requested confidential treatment for the Attachment to Item 19(a); Attachment to Item 24; Attachment to Item 25; and the highlighted portions of Items 26(a); and 26(b), pursuant to KRS 61.878(1)(c)(1).

The information in response to Staff's First Request, Attachment to Item 19(a), contains modeling assumptions generated using the RTSim production cost modeling software.⁹ EKPC argued that disclosure of these modeling assumptions could be used to give competitors an unfair commercial advantage.¹⁰ Additionally, these modeling assumptions were created using a third-party proprietary product, and EKPC cannot disclose this information.¹¹

The information in response to Staff's First Request, Attachment to Item 24, includes calculations that were utilized to determine the cost benefits of the proposed projects.¹² EKPC argued that disclosure of the cost benefits while EKPC is still in the process of bidding and entering contracts could place EKPC at a competitive disadvantage because other parties would know what EKPC is prepared to pay for the

⁹ EKPC's Motion for Confidential Treatment (filed Jan. 3, 2025) (Jan. 3, 2025 Motion) at 3.

¹⁰ EKPC's Jan. 3, 2025 Motion at 3.

¹¹ EKPC's Jan. 3, 2025 Motion at 3.

¹² EKPC's Jan. 3, 2025 Motion at 3.

materials to construct the new generation resource and raise prices, which could alter the cost benefit assumptions that EKPC has provided to the Commission and would result in a higher cost for the products ultimately harming EKPC and its members.¹³

The information in response to Staff's First Request, Attachment to Item 25, contains the capacity benefits based on Base Residual Auction clearing prices through 2026.¹⁴ EKPC argued that, 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.¹⁵

The responses 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, and contains highlighted portions on the estimates, and information on how EKPC derived those estimates. EKPC argued that if the estimates and the methodology for reaching the 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.¹⁶

Having considered the petition and the material at issue, the Commission finds that EKPC's response to Staff's First Request, Attachment to Item 19(a); Attachment to Item 24; Attachment to Item 25; and the highlighted portions of Item 26(a); and 26(b), pursuant to KRS 61.878(1)(c)(1) are generally recognized as confidential or proprietary, that

¹³ EKPC's Jan. 3, 2025 Motion at 3.

¹⁴ EKPC's Jan. 3, 2025 Motion at 3.

¹⁵ EKPC's Jan. 3, 2025 Motion at 3.

¹⁶ EKPC's Jan. 3, 2025 Motion at 4.

disclosure of the material would permit an unfair commercial advantage to competitors of the disclosing party; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure for a period of ten years pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

JANUARY 10, 2025 MOTION

EKPC tendered responses to Appalachian Citizens Law Center, Kentuckians for the Commonwealth, and the Mountain Association's (collectively, Joint Intervenors) First Request for Information (Joint Intervenors' First Request), and requested that the confidential information in the following responses be withheld from public disclosure for an indefinite period.

In response to Joint Intervenors' First Request, EKPC requested confidential treatment for the Attachment to Item 3(a); Attachment to Item 4(c), Item 4(e), Item 4(f), Item 4(h), and Item 4(k); the highlighted portions of Item 13(a); Item 19; the highlighted portions of Item 32(a); Attachment to Item 39(a)-(c); the highlighted portions of Item 44(a)-(b); and the highlighted portions of Item 45(a)-(b), pursuant to KRS 61.878(1)(c)(1).

EKPC's response to Joint Intervenors' First Request, Attachment to Item 3(a), contains economic information for the Cooper Station that EKPC first provided in Case No. 2022-00098,¹⁷ and EKPC noted that it provided the same document in its entirety for which the Commission previously granted confidential treatment pursuant to KRS 61.878(1)(c)(1).¹⁸

¹⁷ EKPC's Motion for Confidential Treatment (filed Jan. 10, 2025) (Jan. 10, 2025 Motion) at 3.

¹⁸ Case No. 2022-00098, *Electronic 2022 Integrated Resource Plan of East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 7, 2023), Order at 12.

In response to Joint Intervenors' First Request, Item 4(c), Item 4(e), Item 4(f), Item 4(h), and Item 4(k), EKPC provided an attachment that contains projected fuel costs, heat rate, generation, capacity factor, and energy revenue in dollars for the Cooper generating units from 2025-2039.¹⁹ EKPC argued that disclosure of the information would create unfair commercial advantage; the projected costs, capacity factors, and revenue of EKPC's generation would be disclosed.²⁰

In response to Joint Intervenors' First Request, Item 13(a), EKPC provided information related to projects in the development stage.²¹ EKPC argued that the highlighted portions are still in development, and if disclosed, bidders in the request for proposal stage could use the information to raise prices to the detriment of EKPC and its member owners.²²

In response to Joint Intervenors' First Request, Item 19, EKPC provided its strategic plan. EKPC argued that disclosure of this information could allow competitors a commercial advantage because they would understand the inner workings of EKPC and could use that information to harm EKPC and its members.²³ In response to Joint Intervenors' First Request, Item 32(a), EKPC provided the annual forecasted change in the wholesale power costs. EKPC requested that the highlighted portions remain

¹⁹ EKPC's Jan. 10, 2025 Motion at 3.

²⁰ EKPC's Jan. 10, 2025 Motion at 3-4.

²¹ EKPC's Jan. 10, 2025 Motion at 4.

²² EKPC's Jan. 10, 2025 Motion at 4.

²³ EKPC's Jan. 10, 2025 Motion at 4.

confidential, arguing that disclosure of this information would create an unfair commercial advantage for competitors.²⁴

In response to Joint Intervenors' First Request, Item 32(a), EKPC provided the annual forecasted change in the wholesale power costs. EKPC requested that the highlighted portions remain confidential, arguing that disclosure of this information would create an unfair commercial advantage for competitors.²⁵ In response to Joint Intervenors' First Request, Item 39(a)-(c), EKPC provided an attachment that calculates the non-fuel operating & maintenance (O&M) savings, reduction of variable operating costs of burning a 50 percent natural gas blend, and reduction of maintenance cost of burning a 50 percent natural gas blend. EKPC argued that disclosure of this information would create an unfair commercial advantage for competitors.²⁶

In response to Joint Intervenors' First Request, Item 44(a)-(b), EKPC provided the estimated capital costs of the gas lateral and infrastructure investments and an analysis of how these estimated capital costs factor into the Thermal Unit Net Cost Benefit values for the Spurlock co-fire. EKPC argued that disclosure of the information would reveal EKPC's expected costs for the project and could raise prices, harming EKPC and ultimately the members.²⁷ Additionally, EKPC is not the owner of the gas lateral pipeline and cannot disclose the cost estimates of a third party.²⁸

²⁴ EKPC's Jan. 10, 2025 Motion at 4.

²⁵ EKPC's Jan. 10, 2025 Motion at 4.

²⁶ EKPC's Jan. 10, 2025 Motion at 4.

²⁷ EKPC's Jan. 10, 2025 Motion at 5.

²⁸ EKPC's Jan. 10, 2025 Motion at 5.

In response to Joint Intervenor's First Request, Item 45(a)-(b), EKPC provided highlighted portions of the estimated capital costs of the gas lateral and infrastructure investments and an analysis of how these estimated capital costs factor into the Thermal Unit Net Cost Benefit values for the Cooper co-fire. EKPC argued that disclosure of the highlighted information would reveal EKPC's expected costs for the project and could raise prices, harming EKPC and ultimately the members.²⁹ Additionally, EKPC is not the owner of the gas lateral pipeline and cannot disclose a third party's cost estimates.³⁰

Having considered the petition and the material at issue, the Commission finds that the entirety of Joint Intervenor's First Request, Attachment to Item 3(a); Attachment to Item 4(c), Item 4(e), Item 4(f), Item 4(h), and Item 4(k); highlighted information in Items 13(a), 32(a), 44(a), 44(b) 45(a), and 45(b) could place EKPC at a commercial disadvantage; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure for a period of ten years pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

Having considered the petition and the material at issue, the Commission finds that EKPC's response to Joint Intervenor's First Request, Item 19 and Item 39(a)-(c) should be denied. For Item 19, the information is of a general nature, and while it may provide some insight into EKPC's strategic goals, public disclosure of this information is unlikely to give competitors a commercial advantage. Furthermore, EKPC did not explain how such information would be used by competitors to create a commercial advantage. Lastly, EKPC has publicly disclosed past strategic plans, of which this is of a similar

²⁹ EKPC's Jan. 10, 2025 Motion at 5.

³⁰ EKPC's Jan. 10, 2025 Motion at 5.

structure.³¹ For Item 39(a)-(c), the Attachment mentioned was filed publicly into the record with no confidential version being filed.

JANUARY 31, 2025 MOTION

EKPC tendered responses to Commission Staff's Second Request for Information (Staff's Second Request) and Joint Intervenors' Second Request for Information (Joint Intervenors' Second Request). EKPC requested that the confidential information in the following responses be withheld from public disclosure for an indefinite period.

In response to Staff's Second Request, EKPC requested confidential treatment for Item 22, the highlighted portions of EKPC's 2022 IRP and Technical Index. EKPC argued that the Commission granted confidential protection to this information in Case No. 2022-00098 by Order dated August 7, 2023.³²

In response to Joint Intervenors' Second Request for Information (Joint Intervenors' Second Request), EKPC requested confidential treatment for the Attachment to Item 8(a) and 8(c), information regarding EKPC's long-range financial forecast. EKPC argued the Attachment contains forecasted financial information that, if made publicly available, could cause potential harm to EKPC, its owner-members, and ultimately the owner-members' end-use members, and should be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).³³

³¹ Case No. 2015-00267, *Application of East Kentucky Power Cooperative, Inc. for Approval of the Acquisition of Existing Combustion Turbine Facilities from Bluegrass Generation Company LLC. at the Bluegrass Generating Station in LaGrange, Oldham County, Kentucky and for Approval of the Assumption of Certain Evidences of Indebtedness* (Ky. PSC Aug. 28, 2015), Order, Attachment – 2014 Strategic Plant Overview Booklet.

³² See Case No. 2022-00098, *Electronic 2022 Integrated Resource Plant of East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 7, 2023), Order.

³³ EKPC's Jan. 31, 2025 Motion at 4.

In response to Joint Intervenor's Second Request, Item 10(a), EKPC provided email correspondence that contained pricing information. EKPC argued that since the email addresses are personal information, they are confidential and should be afforded confidential treatment pursuant to KRS 61.878(1)(a), and the pricing information should be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).³⁴

In response to Joint Intervenor's Second Request, Item 11, EKPC provided an attachment that contains highlighted pricing information from third-party vendors. EKPC argued information was gathered for informational purposes, evaluated by EKPC but not pursued for any current projects, and is sensitive, pricing information that if publicly disclosed could cause competitive harm to the third-party vendors that provided the information and should be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).³⁵

In response to Joint Intervenor's Second Request, Item 19(a), EKPC provided information regarding wholesale pricing. EKPC argued that if it is required to disclose this wholesale pricing information, it could allow market competitors to unfairly compete against EKPC by using cost figures to determine EKPC's pricing and requested that this information should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1).³⁶

In response to Joint Intervenor's Second Request, Items 23 and 24, EKPC provided zip files containing the 2024 Economic Forecast provided by IHS Global and S&P Global. EKPC argued this information is not publicly available and only obtained

³⁴ EKPC's Jan. 31, 2025 Motion at 4.

³⁵ EKPC's Jan. 31, 2025 Motion at 4.

³⁶ EKPC's Jan. 31, 2025 Motion at 4.

through a paid subscription, but that if disclosed would reveal proprietary information of a third party and cause competitive harm to those that are not parties to this proceeding and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).³⁷

In response to Joint Intervenors' Second Request, Items 33(a), 33(b), and 33(c) EKPC provided Variable Operating and Maintenance (VOM) costs. EKPC argued that the pricing information is highly sensitive and confidential information that is not publicly available and could cause competitive harm to EKPC if it were to be disclosed and should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1).³⁸

In response to Joint Intervenors' Second Request, Item 34, EKPC provided two attachments. One attachment contains information in the feasibility report pertaining to mechanic reference documents.³⁹ EKPC argued that the information contained in this document are confidential, proprietary information of the manufacturer of the components, and if made publicly available would cause competitive harm to the manufacturer who is not a party to this proceeding and should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1).⁴⁰

The second attachment in EKPC's response to Joint Intervenors' Second Request, Item 34, is EKPC's Solar Generation Program Proposal Response. EKPC argued that the attachment contains sensitive, highly confidential, proprietary information of EKPC

³⁷ EKPC's Jan. 31, 2025 Motion at 4.

³⁸ EKPC's Jan. 31, 2025 Motion at 5.

³⁹ EKPC's Jan. 31, 2025 Motion at 5.

⁴⁰ EKPC's Jan. 31, 2025 Motion at 5.

pertaining to potential solar projects that EKPC is currently still evaluating and negotiating.⁴¹ If the information were to be made publicly available, it could cause competitive harm to EKPC by revealing pricing and other sensitive information and should be granted confidential treatment pursuant to KRS 61.878(1)(c)(1).⁴²

In response to Joint Intervenor's Second Request, Item 47(c), EKPC provided confidential information pertaining to the fluid dynamics modeling results. EKPC argued this information is proprietary to a third-party that is not a party to this proceeding, that if the information were made publicly available would cause competitive harm to the third-party and should be granted confidential protection pursuant to 61.878(1)(c)(1).⁴³

In response to Joint Intervenor's Second Request, Item 56(a) and 56(c), EKPC provided a table that shows the forecasted, forward-looking pricing information and an Excel spreadsheet that contains the forecasted, forward-looking capacity monetary amounts. EKPC argued this information is sensitive, proprietary information that if publicly disclosed could cause competitive harm to EKPC, its owner-members, and ultimately its owner-members' end-use members and should be afforded confidential treatment pursuant to KRS 61.878(1)(c)(1).⁴⁴

Having considered the petition and the material at issue, the Commission finds that the highlighted information in Commission Staff's Second Request, Item 22, could place EKPC at an unfair commercial disadvantage. The Commission also finds that disclosure

⁴¹ EKPC's Jan. 31, 2025 Motion at 5-6.

⁴² EKPC's Jan. 31, 2025 Motion at 5-6.

⁴³ EKPC's Jan. 31, 2025 Motion at 6.

⁴⁴ EKPC's Jan. 31, 2025 Motion at 6.

of this information would give the public an indication of EKPC's infrastructure and would have a reasonable likelihood of threatening public safety; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure for an indefinite period pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(c)(1) and KRS 61.878(1)(m).

The Commission finds that Joint Intervenor's Second Request, Item 10(a) should be exempt from public disclosure for an indefinite period pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(a), and KRS 61.878(1)(c)(1). The Commission also finds the entirety of Joint Intervenor's Second Request, the Attachments to Items 8(a) and 8(c), Item 11, Item 19(a), Items 23 and 24, Items 33(a), 33(b), and 33(c), both Attachments to Item 34, Item 47(c), and Items 56(a) and 56(c), could place EKPC at a commercial disadvantage; they therefore meet the criteria for confidential treatment and should be exempted from public disclosure for a period of ten years pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

FEBRUARY 13, 2025 MOTION

EKPC tendered a supplemental response to Joint Intervenor's First Request and requested that the confidential information in Item 4 be withheld from public disclosure for an indefinite period pursuant to KRS 61.878(1)(c)(1).

In the supplemental response to the Joint Intervenor's First Request, Item 4, EKPC provided an Excel document that calculates the non-fuel operations and maintenance savings, reduction of variable operating costs of burning a 50 percent natural gas blend, and reduction of maintenance cost of burning of a 50 percent natural gas blend for the

Cooper co-fire project.⁴⁵ EKPC argued that disclosure of this information would allow competitors to gain knowledge of advantages EKPC believes will be achieved from the co-firing projects and could use this information to their advantage, which could cause harm to EKPC and owner-members.⁴⁶

Having considered the petition and the material at issue, the Commission finds that disclosure of the supplemental response to Joint Intervenors' First Request, Item 4, could result in a competitive disadvantage to EKPC and owner-members; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure for a period of ten years pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

FEBRUARY 19, 2025 MOTION

EKPC tendered a supplemental response to Joint Intervenors' First Request and respectfully requested that the confidential information in Item 4 be withheld from public disclosure for an indefinite period pursuant to KRS 61.878(1)(c)(1).

In the supplemental response to the Joint Intervenors' First Request Item 4, EKPC provided Excel spreadsheets containing the operations and maintenance costs for the years 2025-2029.⁴⁷ EKPC argued disclosure of the confidential information would permit an unfair commercial advantage to third parties.⁴⁸

Having considered the petition and the material at issue, the Commission finds that disclosure of the supplemental response to Joint Intervenors' First Request, Item 4, could

⁴⁵ EKPC's Motion for Confidential Treatment (filed Feb. 13, 2025) (Feb. 13, 2025 Motion) at 3.

⁴⁶ EKPC's Feb. 13, 2025 Motion at 3.

⁴⁷ EKPC's Motion for Confidential Treatment (filed Feb. 19, 2025) (Feb. 19, 2025 Motion) at 2.

⁴⁸ EKPC's Feb. 19, 2025 Motion at 2.

result in an unfair commercial advantage to EKPC; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure for a period of ten years pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. EKPC's November 20, 2024 motion for confidential treatment is granted.
2. The information contained in Attachment JJT-2 and Attachment JJT-3 referenced in the November 20, 2024 motion should be held confidential for an indefinite period of time.
3. The information contained in BY-1 Table 7.1 and Appendix R, BY-2 Table 7.1 and Appendix R and BY-3, Appendix R referenced in the November 20, 2024 motion should be held confidential for a period of ten years.
4. EKPC's January 3, 2025 motion for confidential treatment in response to Commission Staff's First Request is granted for a period of ten years.
5. EKPC's January 10, 2025 motion for confidential treatment in response to Joint Intervenors' First Request is granted, in part, and denied, in part.
6. The attachment titled CONFIDENTIAL-JI1-SUMMARY-3MAY24 referenced in EKPC's January 10, 2025 motion for confidential treatment and provided in response to Joint Intervenors' First Request, Attachment to Item 3(a); Attachment to Item 4(c), Item 4(e), Item 4(f), Item 4(h), and Item 4(k) should be held confidential for a period of ten years.
7. The highlighted information in EKPC's response to Joint Intervenors' First Request, Items 13(a), 32(a), 44(a), 44(b), 45(a), and 45(b) referenced in EKPC's January 10, 2025 motion should be held confidential for a period of ten years.

8. The attachment CONFIDENTIAL-JI1-19 EKPC-Strategic-Plan-Booklet-04_18_2024 provided in response to EKPC's response to Joint Intervenor's First Request, Item 19 and referenced in EKPC's January 10, 2025 motion is denied confidential treatment.

9. The attachment provided in response to Joint Intervenor's First Request, Item 39(a)-(c) and referenced in EKPC's January 10, 2025 motion was filed publicly into the record, and therefore, the request for confidential treatment is denied.

10. EKPC's January 31, 2025 motion for confidential treatment in response to Commission Staff's Second Request, Item 22, is granted for an indefinite period.

11. The information contained in Joint Intervenor's Second Request, Item 10(a) referenced in the January 31, 2025 motion should be exempt from public disclosure for an indefinite period of time.

12. The information contained in Joint Intervenor's Second Request, the Attachments to Items 8(a) and 8(c), Item 11, Item 19(a), Items 23 and 24, Items 33(a), 33(b), and 33(c), both Attachments to Item 34, Item 47(c), and Items 56(a) and 56(c), referenced in the January 31, 2025 motion should be exempted from public disclosure for a period of ten years.

13. EKPC's February 13, 2025 motion for confidential treatment in response to supplemental information to Joint Intervenor's First Request is granted for a period of ten years.

14. EKPC's February 19, 2025 motion for confidential treatment in response to supplemental information to Joint Intervenor's First Request is granted for a period of ten years.


15. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

16. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, EKPC shall inform the Commission and file with the Commission an unredacted copy of the designated material.


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

18. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow EKPC to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION


Chairman


Commissioner


Commissioner

ATTEST:

 
Executive Director



Case No. 2024-00370

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