

**Goss
Samford**

ATTORNEYS AT LAW | PLLC

RECEIVED

JUN 25 2018

PUBLIC SERVICE
COMMISSION

David S. Samford
(859) 806-6567
david@gosssamfordlaw.com

June 25, 2018

VIA HAND DELIVERY

Ms. Gwen Pinson
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602

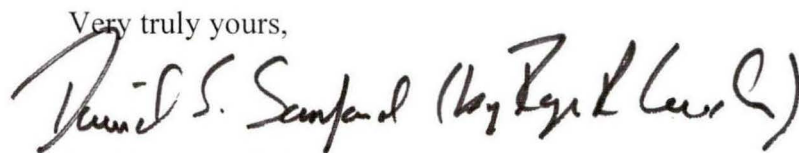
RE: Case No. 2017-00376

Dear Ms. Pinson:

Pursuant to Ordering Paragraphs 6 and 7 of the Commission's May 21, 2018 Order concerning East Kentucky Power Cooperative, Inc.'s requests for confidential treatment, please find an original copy of each of the revised pages reflecting as unredacted the information that has been denied confidential treatment. Please return a file-stamped copy of this filing to me at my office.

If you have any questions or require additional information, please contact me.

Very truly yours,



David S. Samford

Enclosures

cc: Parties of Record

RECEIVED

JUN 25 2018

PUBLIC SERVICE
COMMISSION

EAST KENTUCKY POWER COOPERATIVE, INC.

PSC CASE NO. 2017-00376

RESPONSE TO INFORMATION REQUEST

**COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION DATED 01/05/18
REQUEST 3**

RESPONSIBLE PARTY: Don Mosier

Request 3. Refer to the Mosier Testimony at page 15, lines 16-18. Explain in more detail the statement that the retirement of Spurlock Units 1 and 2 would result in EKPC losing its status as a net generator in PJM. Quantify the impacts, if any, of EKPC no longer being a net generator in PJM.

Response 3. As previously directed by the Commission, EKPC has sufficient resources to cover its winter peak load and a reasonable margin, all of which can be sold into the PJM capacity market. In PJM, EKPC must purchase enough capacity in the PJM capacity market to cover its summer peak load plus a margin. Since EKPC's winter load is significantly larger than its summer peak load, EKPC's net position in the PJM market is a surplus. EKPC sells the surplus into the PJM capacity market and creates a benefit to EKPC's members. EKPC reported in its annual filing to the PSC on July 31, 2017 that it estimated this benefit from surplus capacity sales to be \$38.7 million from June 1, 2016 through May 31, 2017. EKPC reported its estimate for this value to be \$114.6 million for its first ten years of operations in PJM. If EKPC retired over 800 MW of generation at the Spurlock plant without adding another resource to hedge EKPC's winter

demand and energy requirements, it would no longer have more generation to sell into the capacity market than what it would be required to purchase for its summer load requirements. The benefits realized by EKPC being a winter-peaking system in a summer-peaking market would be lost. EKPC would also have an unhedged energy position in the winter that would be detrimental to EKPC and its owner-members.

REDACTED
East Kentucky Power Cooperative, Inc.
Present Value of CCR-ELG Gas Conversion Alternative

Project Cash Flows

Escalation ²	3.36%	3.36%
Year of Estimate	2015	2017

Note 2 - This escalation is computed on the PJM maintenance adder escalation numbers

	2015 Amount	2017 amount	2018	2019	2020	2021	2022	2023	Total
Percentage Complete			2.5%	2.5%	15.0%	20.0%	30.0%	30.0%	
Spurlock Unit 1									
Spurlock Unit 2									
Gas Line from Plant Boundry to Boiler House									
20" TETCO Gas Transmission Line to Spurlock									
Direct Costs									
CM and Indirects									
Engineering									
Start up									
Indirect Costs									
Subtotal - Direct and Indirect Costs									
Contingency									
External Project Cost									
Owner's Cost									
Total from Gas Conversion Study									
Ash Pond Closure									
WMB Pond (Pond and Berm Development)									
Boilers for I.P. Steam									
Total									
Spurlock Unit 1									
Spurlock Unit 2									
Gas Line from Plant Boundry to Boiler House									
20" TETCO Gas Transmission Line to Spurlock									
Ash Pond Closure									
WMB Pond (Pond and Berm Development)									
Boilers for I.P. Steam									
Total	\$317,963,551		\$19,955,065	\$23,736,211	\$53,862,297	\$84,358,121	\$103,112,314	\$93,263,185	\$378,287,194

Incremental Purchases

Incremental Fuel																				
incremental Fuel for Boilers																				
Total Purchases and Fuel																				

Expenses - Amount is 2016 \$

	Amount	Beg Mo	Beg Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Non Labor Escalation ²	3.36%																				
EKPC Labor Escalation	2.90%																				
Labor O&M Differential dollars																					
Maintenance Differential dollars																					
Additional Maintenance for Boilers																					
Operations Costs				\$0	\$0	\$0	\$0	\$77,416	\$640,139	(\$26,579,359)	(\$27,457,970)	(\$28,365,684)	(\$29,303,465)	(\$30,272,312)	(\$31,273,256)	(\$32,307,361)	(\$33,375,728)	(\$34,479,495)	(\$35,619,837)	(\$36,797,967)	(\$38,015,140)
Depreciation																					
Property Taxes																					
Property Insurance																					
Ash Pond Closure Costs																					
Total Costs				\$319,505	\$4,564,835	\$6,793,703	\$11,028,482	\$14,982,779	\$22,015,119	(\$11,017,527)	(\$11,936,744)	(\$12,815,503)	(\$13,794,085)	(\$14,803,728)	(\$15,845,469)	(\$16,920,372)	(\$18,029,536)	(\$19,174,102)	(\$20,355,238)	(\$21,572,984)	(\$22,830,959)

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Net Cash Flows																			
Net Income Statement Impact		(319,505)	(4,564,835)	(6,793,703)	(11,028,482)	(14,982,779)	(22,015,119)	(30,472,573)	(43,552,637)	(52,782,466)	(79,716,051)	(96,594,944)	(131,347,113)	(155,885,519)	(188,426,762)	(234,923,184)	(229,496,273)	(232,386,373)	(256,141,396)
Plus: Depreciation/Amortization		0	0	0	0	1,253,213	15,225,418	14,820,008	14,820,008	14,889,568	14,889,568	14,889,568	14,889,568	14,889,568	14,889,568	14,889,568	14,889,568	14,890,750	14,890,750
Minus: Investment		19,955,065	23,736,211	53,862,297	84,358,121	103,112,314	93,263,185	0	0	0	0	0	0	0	0	0	0	0	0
Net Cash Flow	\$0	(20,274,570)	(28,301,046)	(60,656,000)	(95,386,603)	(116,841,879)	(100,052,886)	(15,652,565)	(28,732,628)	(37,892,898)	(64,826,484)	(81,705,376)	(116,457,545)	(140,985,951)	(173,537,194)	(220,033,616)	(214,606,706)	(217,495,623)	(241,250,646)

Discount Rate 3.0%
NPV of cash flows from 2017-2035 (\$1,343,300,498)

REDACTED
East Kentucky Power Cooperative, Inc.
Present Value of CCR-ELG Coal Compliance Alternative

1
2
3
4
5
6
7
8
9

Project Cash Flows

	2017	2018	2019	2020	2021	2022	2023	2024	Total
11 Waste Water Treatment									
12 Unit 3 NIDS/Ash Mixing									
13 Unit 4 NIDS/Ash Mixing									
14 Unit 3 Ash Mixing									
15 Unit 4 Ash Mixing									
16 Unit 3 NIDS Demolition									
17 Unit 4 NIDS Demolition									
18 Unit 3 Ash Mixing Demolition									
19 Unit 4 Ash Mixing Demolition									
20									
21 Fly Ash - Unit 1									
22 Fly Ash - Unit 2									
23 Fly Ash Demolition - Unit 1									
24 Fly Ash Demolition - Unit 2									
25									
26 Pond Chemical Feed									
27									
28 Bottom Ash - Unit 1									
29 Bottom Ash - Unit 2									
30 Bottom Ash Demolition - Unit 1									
31 Bottom Ash Demolition - Unit 2									
32									
33 Balance of Plant									
34									
35 Ash Pond Closure (Removal of Waste)									
36 WMB Pond (Pond and Berm Development)									
37									
38 Total ¹	\$3,246,075	\$36,740,280	\$96,289,343	\$70,435,055	\$17,515,557	\$12,026,501	\$20,340,446	\$5,806,744	\$262,400,000

Note 1: Amounts were escalated by Burns and McDonald using 1% annual escalation for engineered equipment and 2.5% annual inflation for construction contracts

Expenses - Amount is 2017\$	Amount	Beg Mo	Beg Year	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	
45 EKPC Non Labor Escalation ²	3.36%																						
46 EKPC Labor Escalation	2.90%																						
47																							
48 Labor O&M Differential dollars																							
49 Filter Press Solids Hauling																							
50 Chemical																							
51 Electrical																							
52 Bottom Ash Hauling - Unit 1																							
53 Bottom Ash Hauling - Unit 2																							
54 Operations Costs				\$0	\$0	\$0	\$308,493	\$4,136,730	\$5,399,163	\$5,571,468	\$5,749,299	\$5,932,833	\$6,122,254	\$6,317,752	\$6,519,523	\$6,727,768	\$6,942,697	\$7,164,525	\$7,393,475	\$7,629,776	\$7,873,665	\$8,125,386	
55																							
56 Depreciation																							
57 Property Taxes																							
58 Property Insurance																							
59 Ash Pond Closure Costs																							
60 Total Costs				\$0	\$2,432	\$415,520	\$6,522,270	\$19,077,345	\$26,144,642	\$28,797,477	\$21,409,649	\$15,761,316	\$15,925,615	\$16,084,624	\$16,261,272	\$16,444,393	\$16,634,201	\$16,830,907	\$17,034,734	\$17,245,912	\$17,464,682	\$17,691,279	

Note 2 - This escalation is computed on the PJM maintenance adder escalation numbers

Net Cash Flows	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035				
66 Net Income Statement Impact	\$0	(\$2,432)	(\$415,520)	(\$6,522,270)	(\$19,077,345)	(\$26,144,642)	(\$28,797,477)	(\$21,409,649)	(\$15,761,316)	(\$15,925,615)	(\$16,084,624)	(\$16,261,272)	(\$16,444,393)	(\$16,634,201)	(\$16,830,907)	(\$17,034,734)	(\$17,245,912)	(\$17,464,682)	(\$17,691,279)				
67 Plus: Depreciation/Amortization	0	0	66,024	1,549,033	7,855,260	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663	9,168,663			
68 Minus: Investment	3,246,075	36,740,280	96,289,343	70,435,055	17,515,557	12,026,501	20,340,446	5,806,744	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
69 Net Cash Flow	(\$3,246,075)	(\$36,742,712)	(\$96,638,839)	(\$75,408,292)	(\$28,737,642)	(\$29,002,479)	(\$39,969,260)	(\$18,047,730)	(\$6,592,653)	(\$6,756,952)	(\$6,915,961)	(\$7,092,609)	(\$7,275,730)	(\$7,465,538)	(\$7,662,244)	(\$7,866,071)	(\$8,077,249)	(\$8,296,019)	(\$8,522,616)				
70																							
71 Discount Rate		3.0%																					
72 NPV of cash flows from 2017-2035		(\$343,428,357)																					

REDACTED
East Kentucky Power Cooperative, Inc.
Present Value of CCR-ELG Gas Conversion Alternative

Project Cash Flows

Escalation ²	3.36%	3.36%
Year of Estimate	2015	2017

Note 2 - This escalation is computed on the PJM maintenance adder escalation numbers

	2015 Amount	2017 amount	2018	2019	2020	2021	2022	2023	Total
Percentage Complete			2.5%	2.5%	15.0%	20.0%	30.0%	30.0%	
Spurlock Unit 1									
Spurlock Unit 2									
Gas Line from Plant Boundry to Boiler House									
20" TETCO Gas Transmission Line to Spurlock									
Direct Costs									
CM and Indirects									
Engineering									
Start up									
Indirect Costs									
Subtotal - Direct and Indirect Costs									
Contingency									
External Project Cost									
Owner's Cost									
Total from Gas Conversion Study									
Ash Pond Closure									
WMB Pond (Pond and Berm Development)									
Boilers for I.P. Steam									
Total									
Spurlock Unit 1									
Spurlock Unit 2									
Gas Line from Plant Boundry to Boiler House									
20" TETCO Gas Transmission Line to Spurlock									
Ash Pond Closure									
WMB Pond (Pond and Berm Development)									
Boilers for I.P. Steam									
Total	\$317,963,551		\$19,955,065	\$23,736,211	\$53,862,297	\$84,358,121	\$103,112,314	\$93,263,185	\$378,287,194

Incremental Purchases

Incremental Fuel
incremental Fuel for Boilers
Total Purchases and Fuel

Expenses - Amount is 2016 \$

Non Labor Escalation ² 3.36%
EKPC Labor Escalation 2.90%

Labor O&M Differential dollars
Maintenance Differential dollars
Additional Maintenance for Boilers

Operations Costs

Depreciation
Property Taxes
Property Insurance

Ash Pond Closure Costs

Total Costs

Net Cash Flows

Net Income Statement Impact
Plus: Depreciation/Amortization
Minus: Investment

Net Cash Flow

Discount Rate 3.0%

NPV of cash flows from 2017-2035 (\$1,343,300,498)

Amount	Beg Mo	Beg Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
\$0			\$0	\$0	\$0	\$0	\$77,416	\$640,139	(\$26,579,359)	(\$27,457,970)	(\$28,365,684)	(\$29,303,465)	(\$30,272,312)	(\$31,273,256)	(\$32,307,361)	(\$33,375,728)	(\$34,479,495)	(\$35,619,837)	(\$36,797,967)	(\$38,015,140)
\$319,505			\$4,564,835	\$6,793,703	\$11,028,482	\$14,982,779	\$22,015,119	(\$11,017,527)	(\$11,936,744)	(\$12,815,503)	(\$13,794,085)	(\$14,803,728)	(\$15,845,469)	(\$16,920,372)	(\$18,029,536)	(\$19,174,102)	(\$20,355,238)	(\$21,572,984)	(\$22,830,959)	
	2017																			
			(319,505)	(4,564,835)	(6,793,703)	(11,028,482)	(14,982,779)	(22,015,119)	(30,472,573)	(43,552,637)	(52,782,466)	(79,716,051)	(96,594,944)	(131,347,113)	(155,885,519)	(188,426,762)	(234,923,184)	(229,496,273)	(232,386,373)	(256,141,396)
			0	0	0	0	1,253,213	15,225,418	14,820,008	14,820,008	14,889,568	14,889,568	14,889,568	14,889,568	14,889,568	14,889,568	14,889,568	14,889,568	14,890,750	14,890,750
			19,955,065	23,736,211	53,862,297	84,358,121	103,112,314	93,263,185	0	0	0	0	0	0	0	0	0	0	0	0
			\$0	(20,274,570)	(28,301,046)	(60,656,000)	(95,386,603)	(116,841,879)	(100,052,886)	(28,732,628)	(37,892,898)	(64,826,484)	(81,705,376)	(116,457,545)	(140,995,951)	(173,537,194)	(220,033,616)	(214,606,706)	(217,495,623)	(241,250,646)

RECEIVED

JUN 25 2018

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY POWER)	
COOPERATIVE, INC. FOR APPROVAL TO)	
AMEND ITS ENVIRONMENTAL COMPLIANCE)	
PLAN AND RECOVER COSTS PURSUANT TO)	CASE NO.
ITS ENVIRONMENTAL SURCHARGE,)	2017-00376
SETTLEMENT OF CERTAIN ASSET)	
RETIREMENT OBLIGATIONS AND ISSUANCE OF)	
A CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY AND OTHER RELIEF)	

ORDER

On November 20, 2017, East Kentucky Power Cooperative, Inc. ("EKPC") filed an application for the approval of an amendment to its Environmental Compliance Plan, the settlement of certain asset retirement obligations, a Certificate of Public Convenience and Necessity, and other relief ("Application"). The Application was accompanied by a Motion for Confidential Treatment in which EKPC sought confidential treatment for maps of Spurlock Station and an economic analysis of its proposed amendment, attached as Exhibit RH-1 to the testimony of Robin Hayes ("Hayes Testimony"). On January 19, 2018, EKPC responded to the Commission Staff's First Request for Information ("Staff's First Request") and simultaneously filed a second Motion for Confidential Treatment seeking confidential treatment for actual and projected costs and benefits of EKPC's membership in PJM Interconnection, LLC ("PJM") provided in response to Staff's First Request, Item 3, and additional maps of Spurlock Station pertaining to EKPC's dust control plan. On February 16, 2018, EKPC

filed a supplemental version of Exhibit RH-1 and simultaneously filed a motion seeking to have it treated in a confidential manner. Having considered the motions and material at issue, the Commission grants EKPC's motions in part and denies them in part.

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 Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³ Moreover, in determining whether materials should be exempt from disclosure, the Commission must balance the harm from disclosure with "the effect of protecting a given document from scrutiny by the public and potential intervenors."⁴

The Commission finds that the maps of the Spurlock Station and surrounding utility assets are infrastructure records that disclose the location, configuration, or security of public utility critical systems. The Commission finds that the disclosure of the records would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist

¹ KRS 61.872(1); *see also* KRS 278.020(1) (indicating that the Commission may, in its discretion, conduct a public hearing on any request for a certificate of need and convenience); KRS 278.020(9) (indicating that a public hearing is required in certain situations involving the construction of transmission lines); KRS 278.260(1) ("No order affecting the rates or service complained of shall be entered by the commission without a formal public hearing.").

² *See* KRS § 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

⁴ *See Southern United Medigroup, Inc. v. Hughes*, 952 S.W.2d 195, 199 (Ky. 1997), *abrogated on other grounds by Hoskins v. Maricle*, 150 S.W.3d 1 (Ky. 2004) (indicating that quasi-judicial agencies should engage in this balancing when determining whether documents should be exempt from disclosure pursuant to the Open Records Act).

act. Thus, the Commission concludes that the maps should be excluded from disclosure indefinitely pursuant to KRS 61.878(1)(m)1f as requested by EKPC.

The material regarding the actual and projected costs and benefits of EKPC's PJM membership for which EKPC next seeks confidential treatment identifies the benefits EKPC contends accrued to its members based on its PJM membership from June 1, 2016, through May 31, 2017, and the total benefits EKPC estimates contends will accrue to its members during its first ten years as a member of PJM. The estimated benefits for the first ten years include both historic estimates and future projections (the period at issue is 2013 through 2022).⁵ EKPC argues that disclosure of the information regarding the benefits of PJM membership would "potentially harm" its competitive position in the marketplace.⁶

The Commission finds that EKPC failed to establish that the material regarding the benefits of PJM membership meet the criteria for confidential treatment. The material is extremely general and includes only single figures providing the net of the costs and benefits during the relevant periods (a single figure for the period from June 1, 2016, through May 31, 2017, and a single figure for the estimated benefits from 2013 through 2022). With respect to the historical information, the Commission observes that another utility requested confidential treatment for related but more specific material – transmission capacity it expected to sell or bid in the PJM markets – but limited the request to projected information, which indicates that such historical information is not

⁵ See Case No. 2012-00169, *Application of East Kentucky Power Cooperative, Inc. to Transfer Functional Control of Certain Transmission Facilities to PJM Interconnection, LLC* (Ky. PSC December 20, 2012) (hereinafter "Case No. 2012-00169") (in which EKPC was authorized to become a full member of EKPC and in which a similar figure was discussed along with how it was calculated).

⁶ EKPC's Motion for Confidential Treatment (filed Jan. 19, 2018) at 3.

generally considered to be confidential.⁷ Moreover, EKPC's previous estimate of the net benefit of its first ten years as a PJM member (along with more detailed information regarding costs and benefits) was included in EKPC's supplemental response to the Attorney General's First Request for Information, Item 31, and in the Final Order in Case No. 2012-00169, both of which are currently available to the public and posted on the Commission's website in that case.⁸ EKPC is also required to pass the benefits it receives from its PJM membership to its members such that it would be necessary for that information to be made public, at least in general terms, to account for the benefits passed on.⁹ Thus, the Commission finds that EKPC failed to establish that the information regarding the benefits of PJM membership for which confidential treatment was sought meets the criteria for confidential treatment, and therefore, that material should not be exempt from public disclosure.

Exhibit RH-1, which was prepared and sponsored by Robin Hayes, is a summary of an economic analysis she performed to compare the environmental compliance plan proposed in the Application ("Proposed Compliance Plan") and an alternative proposal to convert Spurlock Units 1 and 2 from coal-fired generators to natural gas-fired generators ("Alternative Compliance Plan").¹⁰ EKPC argued that Exhibit RH-1 is

⁷ Case No. 2017-00179, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electrical Service; (2) An Order Approving Its 2017 Environmental Compliance Plan; (3) an Order Approving its Tariffs and Riders; (4) An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) An Order Granting All Other Required Approvals and Relief* (Ky. PSC, Oct. 5, 2017) at 3-4.

⁸ Case No. 2012-00169, *EKPC*, Final Order at 12-17.

⁹ See Case No. 2012-00169, Final Order at 20 ("[T]he Commission finds that EKPC's membership in PJM should be conditioned upon EKPC agreeing to file, no later than November 30, 2015, an application for approval of a rate mechanism to flow back to customers the capacity market benefits expected to accrue from membership in PJM").

¹⁰ Hayes Testimony at 2:3-2:8.

confidential and proprietary and that its disclosure “would give bidders and contractors a tremendous competitive advantage in seeking to secure the work” necessary to implement the Proposed Compliance Plan, thereby qualifying it for exemption from disclosure pursuant to KRS 61.878(c)(1). However, the Commission must rely on the information contained in Exhibit RH-1 to make its decision on the merits in this matter, because Exhibit RH-1 is EKPC’s primary evidence regarding the relative costs of the Proposed Compliance Plan and the Alternative Compliance Plan.¹¹ Thus, considering the interests involved, the Commission finds that portions of Exhibit RH-1 should be exempt from public disclosure but that other portions should not be exempt from disclosure.

Specifically, Exhibit RH-1 contains the capital expenditures and expenses that EKPC contends it would incur in implementing the Proposed Compliance Plan and the Alternative Compliance Plan from 2017 through 2035. For each plan, capital expenditures are broken down by year and into various phases or projects – all of which will be completed by 2024, according to the estimate. Similarly, expenses are broken down by year and into various components through 2035. Exhibit RH-1 also sets forth the net cash flow for each of the plans from 2017 through 2035 by year and indicates how EKPC calculated the total present value of the net cash flow for each.¹² The

¹¹ See KRS 278.183 (2) (indicating the Commission must determine whether the environmental compliance plan is “reasonable and cost-effective for compliance with the applicable environmental requirements” and, if so, “establish a reasonable return on compliance-related capital expenditures.”); see also Case No. 2014-00292, *Application of East Kentucky Power Cooperative, Inc. for an Order Declaring the Glasgow Landfill Gas-to-Energy Project to be an Ordinary Extension of Existing Systems in the Usual Course of Business and a Joint Application of Farmers Rural Electric Cooperative Corporation and East Kentucky Power Cooperative, Inc. for Approval to Enter into a Ten Year Purchased Power Agreement and Approval of a Special Contract* (Ky. PSC Mar. 30, 2015), Order at 2 (“[C]apital costs are not generally recognized as confidential or proprietary when submitted in support of a request for a CPCN.”).

¹² Hayes Testimony at 1:16-1:20, Exhibit RH-1 at 1-2.

information contained in Exhibit RH-1 is not contained in the Hayes Testimony.¹³ Thus, the Commission finds that the total values, including the total yearly values, do not meet the criteria for confidential treatment, and therefore, that information should not be exempt from public disclosure. However, the Commission finds that, under the circumstances, the line items that include estimates of specific expenditures or projects meet the criteria for confidential treatment for a period of seven years, at which point EKPC expects the capital projects to be completed, and therefore, that the line item information should be exempt from disclosure for that period.

IT IS THEREFORE ORDERED that:

1. EKPC's motions for confidential treatment are granted in part and denied in part.

2. The maps of Spurlock Station and other facilities for which confidential treatment was sought meet the criteria for confidential treatment and, therefore, those materials shall be exempt from public disclosure, unless and until this Commission orders otherwise.

3. The material regarding the benefits of PJM membership for which confidential treatment was sought do not meet the criteria for confidential treatment and, therefore, those materials shall be made available to the public.

4. Lines 11 through 36 of page 1 of Exhibit RH-1; Lines 48 through 53 of page 1 of Exhibit RH-1; Lines 56 through 59 of page 1 of Exhibit RH-1; Lines 19 through 52 of page 2 of Exhibit RH-1; Lines 59 through 62 of page 2 of Exhibit RH-1; Lines 70 through 72 of page 2 of Exhibit RH-1; and Lines 76 through 79 of page 2 of

¹³ Hayes Testimony at 4:20-5:11.

Exhibit RH-1, with the exception of the first column on the left of each page of the spreadsheet, meet the criteria for confidential treatment and, therefore, that information shall be exempt from public disclosure for a period of seven years from that date of this Order, unless and until this Commission orders otherwise.

5. The remaining lines of Exhibit RH-1 and the whole of the first column on the left side of each page do not meet the criteria for confidential treatment and, therefore, that information shall be made available to the public.

6. Within 35 days from the date of this order, EKPC shall file into the public record a copy of Exhibit RH-1 as filed with the Application and a copy of the supplemental version of Exhibit RH-1 as filed on or about February 16, 2018, with the information the Commission held should be treated as confidential redacted, but containing all other information in Exhibit RH-1 as filed previously filed.

7. Within 35 days from the date of this order, EKPC shall file into the public record a copy of its response to Staff's First Request, Item 3, in which the information regarding the benefits of PJM membership contained therein is not redacted.

8. The Commission shall not place the materials in the public record for a period of 30 days pursuant to 807 KAR 5:001, Section 13(5), unless filed into the public record by EKPC prior to that time.

9. The use of materials granted confidential treatment in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

10. EKPC shall inform the Commission if the materials granted confidential protection become publicly available or no longer qualify for confidential treatment.

11. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, EKPC shall have 20 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.

12. Nothing in this Order shall be construed as preventing the Commission from revisiting the confidential treatment of materials and information.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission

ENTERED
MAY 21 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2017-00376

*David S Samford
Goss Samford, PLLC
2365 Harrodsburg Road, Suite B325
Lexington, KENTUCKY 40504

*Justin M. McNeil
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Kent Chandler
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*East Kentucky Power Cooperative, Inc.
4775 Lexington Road
P. O. Box 707
Winchester, KY 40392-0707

*Rebecca W Goodman
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204