

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF EAST)	
KENTUCKY POWER COOPERATIVE, INC. AND)	
ITS MEMBER DISTRIBUTION COOPERATIVES)	CASE NO.
FOR APPROVAL OF PROPOSED CHANGES TO)	2024-00101
THEIR QUALIFIED COGENERATION AND SMALL)	
POWER PRODUCTION FACILITIES TARIFFS)	

ORDER

On August 2, 2024, East Kentucky Power Cooperative, Inc. (EKPC) filed a motion for confidential treatment, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for 20 years for its response to Item 2 of Commission Staff's Third Request for Information (Staff's Third Request), which is an update to response to Item 1(c) of Commission Staff's Second Request for Information (Staff's Second Request), which is an update to the Table 3(b) provided in response to Item 3(b) of Commission Staff's First Request for Information (Staff's First Request), that included startup costs, no load costs, fixed cost, and Operating and Maintenance (O&M) costs.

In support of its motion, EKPC argued that the information contained in the spreadsheet contains material that is generally recognized as confidential and if disclosed would result in commercial harm to EKPC, and its owner-members, since this information could be used by EKPC's competitors to devise competitive bidding strategies that would impair EKPC's ability to compete in the competitive energy market and would result in

higher costs for EKPC and its owner-members.¹ EKPC stated that the information is proprietary and commercially sensitive.² Additionally, EKPC stated the information is not known outside of EKPC, is not disseminated within EKPC except to those employees with a legitimate business need.³ EKPC also argued that the Kentucky Open Records Act exempts from disclosure confidential information that would permit an unfair advantage to third parties.⁴

Having considered the motion and the material at issue, the Commission finds that EKPC's response to Staff's Third Request, Item 2, specifically redated portions of spreadsheets regarding startup costs, no load costs, fixed cost and O&M costs, which related to information concerning the inner workings of the corporation, is generally recognized as confidential or proprietary;⁵ it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. EKPC's August 2, 2024 motion for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for 20 years or until further order of this Commission.

¹ Motion for Confidential Treatment (Motion) (filed Aug. 2, 2024) at 2.

² Motion at 2.

³ Motion at 2.

⁴ Motion at 3.

⁵ *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995).

3. 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).

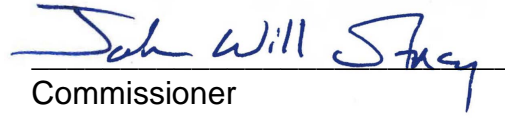
4. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, EKPC shall inform the Commission and file with the Commission an unredacted copy of the designated material.

5. 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.

6. 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

ENTERED
SEP 16 2024
rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

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