

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION **RECEIVED**

DEC 20 2013

In the Matter of:

PUBLIC SERVICE
COMMISSION

INTEGRATED RESOURCE PLANNING REPORT)
OF KENTUCKY POWER COMPANY TO THE)
KENTUCKY PUBLIC SERVICE COMMISSION,) CASE NO. 2013-_____
DECEMBER 20, 2013)

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MOTION FOR CONFIDENTIAL TREATMENT

Kentucky Power Company ("Kentucky Power" or "the Company"), moves the Commission pursuant to 807 KAR 5:001, Section 13, for an Order granting confidential treatment to the information and documents identified below filed in connection with Kentucky Power's December 20, 2013 Integrated Resource Planning Report ("IRP Report") submitted pursuant to 807 KAR 5:058. Kentucky Power's motion is supported by the Affidavit of Ranie K. Wohnhas ("Wohnhas Affidavit"), a copy of which is attached as Exhibit A.

The IRP Report and exhibits include extensive proprietary projections regarding Kentucky Power's future operations, including load and resource forecasts, and new generation technology. Kentucky Power also includes details related to the location of transmission facilities in Kentucky and American Electric Power Company's Eastern region. These confidential and proprietary portions are being filed as a supplement to the Report.

Specifically, Kentucky Power is seeking confidential treatment for the following information and documents:¹

¹ Wohnhas Affidavit at ¶ 4.

Item No.	Exhibit Number or Type of Document	Description of Confidential and Proprietary Information	Statutory Basis for According Confidential Treatment
1	Chapter 2 Confidential Appendix	Sensitive Customer Account Data and forecast electricity prices	KRS 61.878(1)(c)(1)
2	Exhibit 4-4	Projected Average Fuel Costs through 2028 Projected Variable Production Costs through 2028 Projected Non-fuel O&M through 2028	KRS 61.878(1)(c)(1)
3	Exhibit 4-6	Projected Capacity Factors (steam) through 2028 Projected Availability Factors (steam) through 2028 Projected Average heat Rates through 2028	KRS 61.878(1)(c)(1)
4	Exhibit 4-9	Key Supply Side Resource Option Assumptions (new generation technologies)	KRS 61.878(1)(c)(1)
5	Exhibit 4-16	American Electric Power System (generation and transmission detail)	KRS 61.878(1)(m)(1)(g) KRS 61.878(1)(k)
6	Exhibit 4-17	Kentucky Power Transmission Line Network	KRS 61.878(1)(m)(1)(g) KRS 61.878(1)(k)

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of the IRP report and exhibits thereto containing confidential information with the confidential portions highlighted in yellow or otherwise indicated as being confidential. Kentucky Power is also filing redacted versions of the entire testimony and all exhibits. Kentucky Power will notify the Commission when it determines the information for which confidential treatment is sought is no longer confidential.

A. The Requests and the Statutory Standard.

Kentucky Power does not object to filing the identified information for which it is seeking confidential treatment, but requests that the identified portions be excluded from the public record and public disclosure.

KRS 61.878(1)(c)(1) excludes from the Open Records Act:

"[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

Items 1 through 4 above satisfy each of the statutory requirements for confidential treatment under KRS 61.878(1)(c)(1).

KRS 61.878(1)(m)(1)(f) exempts records from public inspection that 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, including:

Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

Items 5 and 6 satisfy each of the statutory requirements for confidential treatment under KRS 61.878(1)(m)(1)(f).

KRS 61.878(1)(k) exempts "all public records or information the disclosure of which is prohibited by federal law or regulation" from disclosure under the Open Records Act. Items 5 and 6 also satisfy the statutory requirements for confidential treatment under KRS 61.878(1)(k).

1. *Applicability of KRS 61.878(1)(c)(1) to Items 2 through 4.*

(a) The Records Are Being Confidentially Disclosed To The Commission.

The information contained in Items 2 through 4 for which confidential protection is sought is being disclosed to the Public Service Commission pursuant to 807 KAR 5:058. As such, it is both being disclosed to the Commission and is required by the Commission to be disclosed to it.

(b) The Information Is Generally Recognized As Confidential and Proprietary.

The Company's financial and operating projections, including those set out in Items 2 through 4 above are treated as proprietary and confidential by Kentucky Power and have not been publicly disclosed by Kentucky Power.² The Company takes reasonable steps to prevent the disclosure of such information outside the Company, and the information is disseminated within the Company on a need-to-know basis.³

None of the information for which confidential protection is sought is readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use.⁴ Moreover, the Company believes that independent research by persons not privy to the information would not reveal this level of detailed information.⁵

Items 2 through 4 include confidential and proprietary information, the disclosure of which is likely to provide an unfair competitive advantage.⁶ Item 2 includes the projected fuel costs, variable production costs, and non-fuel O&M of generation through the year 2028.⁷ Information substantially similar to that contained in Item 2 (Exhibit 4-4) was accorded

² *Id.* at ¶ 12.

³ *Id.*

⁴ *Id.* at ¶ 11.

⁵ *Id.*

⁶ *Id.* at ¶ 6.

⁷ *Id.*

confidential treatment by the Commission by letters dated December 11, 2009, December 2, 2002 and November 9, 1999 in Case Nos. 2009-00339, 2002-00377 and 99-437, respectively.⁸ Item 3 (Exhibit 4-6) includes the projected value of each of those factors through 2028.⁹ Item 4 (Exhibit 4-9) contains forecasted capability, installed cost, heat rate, fuel, variable O&M, and fixed O&M costs, and emission rates for new generation technologies.¹⁰ Similar information was provided confidential treatment by the Commission in Case No. 2007-00477 by letter dated January 18, 2008.¹¹

(c) Disclosure Of The Information Will Result In An Unfair Commercial Advantage.

Although its retail rates are regulated by this Commission, Kentucky Power makes substantial sales through PJM Interconnection, LLC of electric energy into the extremely competitive interstate wholesale electricity market. The disclosure of the cost and capacity values and projections in Items 2 through 4 (Confidential Exhibits 4-4, 4-6, and 4-9) would permit an unfair commercial advantage to Kentucky Power's competitors and suppliers.¹² Public disclosure of such cost data and capacity information could prove very damaging to the Company in both current and future competitive marketplaces, and would place Kentucky Power at a significant disadvantage in the marketplace.¹³ If Kentucky Power's costs are publicly known, competitors and suppliers can formulate competitive bidding strategies that will hamper the Company's ability to compete against them, cause Kentucky Power's units to operate/sell less, and ultimately cost more to operate resulting in higher costs for the Company's customers.¹⁴ Such information might permit a competitor to underbid Kentucky Power based on an unfair

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at ¶ 9.

¹³ *Id.*

commercial advantage; a result which would be detrimental not only to Kentucky Power but to the marketplace as well.¹⁵

Finally, Kentucky Power derives independent economic value from the subject information not being generally known to, and not being readily ascertainable by other persons who can obtain economic value from its disclosure or use. Accordingly, Kentucky Power would be placed at a competitive disadvantage vis-à-vis other electric utilities buying and selling in the wholesale market if required to disclose the information publicly.¹⁶ Kentucky Power seeks confidential treatment of the identified information until such time as it files its next IRP Report at which time the information will be out of date.

2. *Applicability of KRS 61.878(1)(c)(1) to Item 1.*

Item 1 consists of historical and projected customer-specific usage data for certain of Kentucky Power's largest customers.¹⁷ The information is identified by both customer name and account number.¹⁸

(a) *The Records Are Being Confidentially Disclosed To The Commission.*

The information contained in Item 1 for which confidential protection is sought is being disclosed to the Public Service Commission pursuant to 807 KAR 5:058. As such, it is both being disclosed to the Commission and is required by the Commission to be disclosed to it.

(b) *The Information Is Generally Recognized As Confidential and Proprietary.*

Customer-specific usage information is recognized and treated as confidential and proprietary by Kentucky Power and its customers.¹⁹ It has not been publicly disclosed by

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at ¶ 5.

¹⁸ *Id.*

¹⁹ *Id.* at ¶ 12.

Kentucky Power and the Company takes reasonable steps to prevent the disclosure of such information outside the Company.²⁰ The information is disseminated within the Company on a need-to-know basis.²¹ Kentucky Power also understands that its customers also take similar measures to protect against the public disclosure of such information.

None of the information for which confidential protection is sought is readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use.²² Moreover, the Company believes that independent research by persons not privy to the information would not reveal this level of detailed information.²³

(c) Disclosure Of The Information Will Result In An Unfair Commercial Advantage.

The cost of electricity constitutes a material part of the cost structure of many of the Company's larger customers. It is Kentucky Power's understanding that such information is routinely protected by its customers from public disclosure because of the competitive disadvantage resulting from such disclosure. It is further the Company's belief that each of these companies is a private entity whose cost of operation or cost of production is not regulated by this Commission or any other government body. Kentucky Power seeks confidential treatment of the identified information until such time as it files its next IRP Report at which time the information will be out of date.

3. *Applicability of KRS 61.878(1)(m)(1)(f) and KRS 61.878(1)(k) to Items 5 and 6.*

The maps constituting Items 5 and 6 include details of Kentucky Power's transmission facilities should be treated as confidential for Critical Energy Infrastructure Information (CEII).²⁴

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at ¶ 11.

²³ *Id.*

²⁴ *Id.* at ¶¶ 7, 10.

FERC regulations define CEII as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

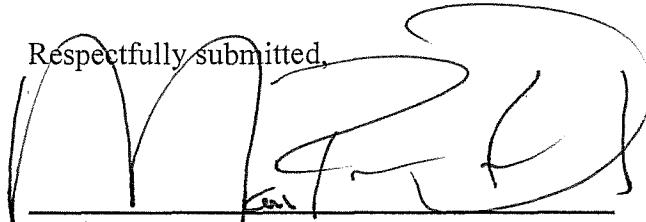
18 CFR 388.113(c)(2).

The FERC definition includes existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters. 18 CFR § 388.113(C)(2). Items 5 and 6 constitute CEII under the FERC definition and is protected from disclosure under the Freedom of Information Act by 18 C.F.R. § 388.112.

For many of the same reasons, Items 5 and 6 are protected from disclosure under KRS 61.878(1)(m)(1)(f). In particular, the transmission systems of Kentucky Power and American Electric Power Company, Inc. are critical to the ability of Kentucky Power to provide electrical service to its customers.²⁵ The destruction or disruption of even a small portion of these systems would have a reasonable probability of protecting against, mitigating or responding to a terrorist act, as that term is defined at KRS 61.878(1)(m)(2). Moreover, the information is exempted by KRS 61.878(1)(k) as information exempted from disclosure under federal law. Kentucky Power seeks confidential treatment of the identified information in Items 5 and 6 for the life of the identified facilities. Once the facilities are retired the information will no longer be CEII.

For the foregoing reasons, Kentucky Power requests that the Kentucky Public Service Commission to afford confidential treatment to Items 1 through 6 described above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Overstreet', written over a horizontal line.

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²⁵ *Id.*

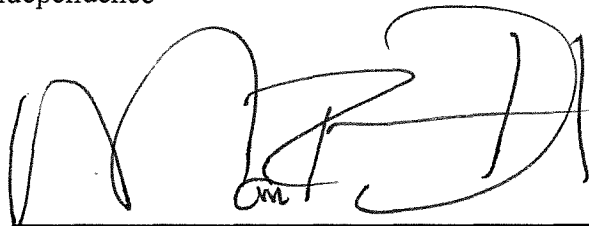
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by first class mail, postage prepaid, and by e-mail transmission upon the following parties of record, this 20th day of December, 2013.

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A handwritten signature in black ink, appearing to read 'MRO', written over a horizontal line.

Mark R. Overstreet