

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) A GENERAL)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC)	
SERVICE; (2) APPROVAL OF TARIFFS AND)	
RIDERS; (3) APPROVAL OF ACCOUNTING)	CASE NO.
PRACTICES TO ESTABLISH REGULATORY)	2020-00174
ASSETS AND LIABILITIES; (4) APPROVAL OF)	
A CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY; AND (5) ALL OTHER)	
REQUIRED APPROVALS AND RELIEF)	

ORDER

On December 9, 2020, Kentucky Power Company (Kentucky Power) filed a motion, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, requesting that the Commission grant confidential treatment to its response to Commission Staff's Post-Hearing Request for Information (Staff's Post-Hearing Request), Item 17, Attachments 2-7, for an indefinite period and its response to the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention's (Attorney General) Post-Hearing Request for Information (Attorney General's Post-Hearing Request), Item 2, Attachment 1, for five years. The documents filed in response to Staff's Post-Hearing Request contain Kentucky Power's corporate state income tax returns filed in Illinois, Michigan, and West Virginia for years 2018 and 2019. The document filed in response to the Attorney General's Post-Hearing Request contains a nonpublic report prepared and copyrighted by a third party pursuant to a paid subscription service.

In support of its motion requesting confidential treatment for specific taxation documents filed in response to Commission Staff's Post-Hearing Request, Kentucky Power argued that its corporate tax returns filed in Illinois, Michigan, and West Virginia for years 2018 and 2019 are highly confidential and proprietary. Kentucky Power contended that information contained in tax returns is generally protected from governmental disclosure under federal and state law. Specifically, KRS 131.190 affords confidential protection of state tax returns and provides for reciprocal protection of state returns of other state governments. Kentucky Power asserted that the tax returns are exempt from disclosure under KRS 61.878(1)(l) because such disclosure is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, which includes information acquired by the Department of Revenue in tax administration.

In support of its motion requesting confidential treatment for the report filed in response to the Attorney General's Post-Hearing Request, Kentucky Power argued that the report was prepared and copyrighted by the Edison Electric Institute (EEI), and provided to Kentucky Power via a paid subscription without unfettered dissemination rights. According to Kentucky Power, EEI's report contains typical bills and average rates (including rankings) for investor-owned utilities in all 50 states, and EEI owns the rights to the specific compilation of data and associated rankings. EEI granted Kentucky Power access to the report but did not authorize the report's public disclosure. Kentucky Power further argued that, absent a waiver of confidential treatment by EEI, the information should remain confidential for five years, after which time the data will become obsolete.

Having considered the motion and the material at issue, the Commission finds that the designated materials are generally recognized as confidential or proprietary, and

therefore meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1), KRS 61.878(1)(k), and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

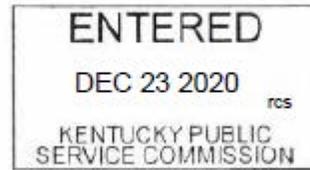
1. Kentucky Power's motion for confidential treatment is granted.
2. The tax documents filed in response to Staff's Post-Hearing Request, which are granted confidential treatment by this Order, shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.
3. The EEI report filed in response to the Attorney General's Post-Hearing Request, which is granted confidential treatment by this Order, shall not be placed in the public record or made available for public inspection for five years or until further Order of this Commission.
4. 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).
5. Kentucky Power shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
6. 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, Kentucky Power 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 Kentucky Power

is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

7. 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 Kentucky Power to seek a remedy afforded by law.

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By the Commission



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