

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)	2023-00159
ASSETS AND LIABILITIES; (4) A)	
SECURITIZATION FINANCING ORDER; AND (5))	
ALL OTHER REQUIRED APPROVALS AND)	
RELIEF)	

ORDER

On August 28, 2023, Kentucky Power Company (Kentucky Power) filed a motion, pursuant to 807 KAR 5:001, Section 13, KRS 61.878, and 17 C.F.R. § 240.10b-5 requesting that the Commission grant confidential treatment for various intervals for documents submitted in response to Commission Staff’s Second Request for Information (Staff’s Second Request), Attorney General’s First Request for Information (Attorney General’s First Request), and Kentucky Industrial Utility Customers, Inc.’s (KIUC) First Request for Information (KIUC’s First Request), and Joint Intervenors’ First Request for Information (Joint Intervenors’ First Request).

Response to Staff’s Second Request, Item 14, Attachment 2

Kentucky Power sought confidential treatment, pursuant to KRS 61.878(1)(c)(1), through December 31, 2025, for information concerning prospective customer names, projected load, or other identifiers for not-yet-public economic development projects that Kentucky Power is evaluating in its service territory over the next five years.

In support of its motion, Kentucky Power argued that the requested customer-specific information could be used by competitors of Kentucky Power's prospective customers to gain information that is not otherwise known regarding prospective customers' business operations, which will place customers at a competitive disadvantage. Kentucky Power further asserted that publication of this information would cause Kentucky Power competitive harm because such publication may impede Kentucky Power's ability to enter into agreements for service with prospective customers if customers know that information regarding their private data and business operation plans could be made public.

Having considered the motion and the material at issue, the Commission finds that the documents containing information on prospective customer names, projected load, or other identifiers for economic development projects that Kentucky Power is evaluating in its service territory over the next five years is generally recognized as confidential or proprietary because if it is publicly disclosed it may impede Kentucky Power's ability to enter into agreements for service with prospective customers; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure through December 31, 2025, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

Response to Attorney General's First Request and KIUC's First Request, Item 37, Attachment 1

Kentucky Power sought confidential treatment for American Electric Power's (AEP) most recent Performance Share Award Agreement until March 31, 2024, when the document is filed with the Securities and Exchange Commission (SEC) pursuant to KRS 61.878(1)(k) and 17 C.F.R. § 240.10b-5.

In support of its motion, Kentucky Power argued that it is required to maintain the confidentiality of the information under SEC regulations until the information is included in its public SEC filing on March 31, 2024.

Having considered the motion and the material at issue, the Commission finds that AEP's most recent Performance Share Award Agreement is generally recognized as confidential or proprietary because Kentucky Power is required to keep the document confidential by SEC regulation; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure until the document is publicly filed with the SEC on March 31, 2024, pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(k), and 17 C.F.R. § 240.10b-5.

Response to Attorney General's First Request and KIUC's First Request, Item 34, Attachments 1 and 2

Kentucky Power sought confidential treatment for ten years for portions of AEP's 2023 and 2022 Incentive Compensation Plans for employees pursuant to KRS 61.878(1)(c)(1). In support of its motion, Kentucky Power argued that the public disclosure of the information is likely to result in a competitive disadvantage through increased costs and a loss of negotiating ability for Kentucky Power. Kentucky Power further argued that the public disclosure of the information would make it easier and less expensive for other employers to successfully compete with Kentucky Power and other AEP affiliates for employees.

Having considered the motion and the material at issue, the Commission finds that AEP's 2023 and 2022 Incentive Compensation Plans for employees are generally recognized as confidential or proprietary as disclosure of them could cause a competitive disadvantage in the hiring and retention of employees; the documents therefore meet the

criteria for confidential treatment and should be exempted from public disclosure for ten years pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

Response to Joint Intervenors' First Request, Item 26, Attachment 1

Kentucky Power requested confidential treatment through the end of the delivery year, or until June 1, 2025, for a copy of the bilateral capacity contract between Kentucky Power and a third-party seller for PJM delivery years 2024/25 and 2025/26 pursuant to KRS 61.878(1)(c)(1).

In support of its motion, Kentucky Power asserted that although Kentucky Power has made public the cost per MW of capacity to be purchased during the 2024/25 and 2025/26 PJM delivery years, the contract represents the product of Kentucky Power's lengthy negotiations and specifically tailored provisions that are unique to this particular generation resource and Kentucky Power's capacity plan. Kentucky Power further asserted that maintaining the confidentiality of this information provides Kentucky Power with more flexibility in subsequent contracts.

Having considered the motion and the material at issue, the Commission finds that the bilateral capacity contract between Kentucky Power and a third-party seller is generally recognized as confidential or proprietary because public disclosure could grant Kentucky Power's competitors a commercial advantage and impede Kentucky Power's ability to enter into such contracts in the future; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure through the end of each delivery year, December 31, 2025, for information pertaining to the 2024/25 delivery year, and December 31, 2026, for information pertaining to the 2025/26 delivery year pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Kentucky Power's motion for confidential treatment is granted.
2. The information concerning prospective customer names, projected load, or other identifier for not-yet-public economic development projects that Kentucky Power is evaluating in its service territory over the next five years in response to Staff's Second Request, Item 14, Attachment 2, granted confidential treatment by this Order, shall not be placed in the public record or made available for public inspection until December 31, 2025, or until further Order of this Commission.
3. AEP's most recent Performance Share Award Agreement in response to Attorney General's First Request and KIUCs First Request, Item 37, Attachment 1, granted confidential treatment by this Order, shall not be placed in the public record or made available for public inspection until March 31, 2024, or until further Order of this Commission.
4. AEP's 2023 and 2022 Incentive Compensation Plans in response to Attorney General's First Request and KIUC's First Request, Item 34, Attachments 1 and 2, granted confidential treatment by this Order, shall not be placed in the public record or made available for public inspection for ten years or until further Order of this Commission.
5. The bilateral contract between Kentucky Power and a third-party seller, in response to Joint Intervenors' First Request, Item 26, Attachment 1, granted confidential treatment by this Order, shall not be placed in the public record or made available for public inspection through December 31, 2025 for information pertaining to the 2024/25 delivery year, and December 31, 2026, for information pertaining to the 2025/26 delivery year, or until further Order of this Commission.

6. 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).

7. 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.

8. 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.

9. 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.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
SEP 12 2023 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Joseph Fichera
Senior Managing Director & CEO
Saber Partners, LLC
260 Madison Avenue 8th Floor
New York, NEW YORK 10016

*Honorable Kimberly S McCann
Attorney at Law
VanAntwerp Attorneys, LLP
1544 Winchester Avenue, 5th Floor
P. O. Box 1111
Ashland, KENTUCKY 41105-1111

*Ashley Wilmes
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KENTUCKY 40602

*Jody M Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

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

*Byron Gary
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KENTUCKY 40602

*John Horne
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Carrie H Grundmann
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NORTH CAROLINA 27103

*Kenneth Gish
K&L Gates
300 South Tryon Street
Suite 1000
Charlotte, NORTH CAROLINA 28202

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Christen M Blend
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Megan W Mullins
Spilman Thomas & Battle, PLLC
300 Kanawha Blvd, East
Charleston, WEST VIRGINIA 25301

*Thomas J FitzGerald
Counsel & Director
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KENTUCKY 40602

*Kentucky Power Company
Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Steven W Lee
Spilman Thomas & Battle, PLLC
1100 Brent Creek Blvd., Suite 101
Mechanicsburg, PENNSYLVANIA 17050

*Hector Garcia Santana
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Katie M Glass
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Tanner Wolfram
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*W. Mitchell Hall, Jr.
VanAntwerp Attorneys, LLP
1544 Winchester Avenue, 5th Floor
P. O. Box 1111
Ashland, KENTUCKY 41105-1111