

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter Of:

Electronic Review Of The Adequacy)
Of Kentucky’s Generation Capacity And) Admin. Case No. 387
And Transmission System)

Kentucky Power Company’s Motion for Confidential Treatment

Kentucky Power Company (“Kentucky Power” or “Company”) moves the Public Service Commission of Kentucky (“Commission”) pursuant 807 KAR 5:001, Section 13 for confidential treatment of the identified portions of Confidential Attachment 2 to the Company’s response to Commission Staff’s Data Request No. 6.

1. The information for which confidential treatment is being sought is being filed in accordance with the Commission’s Order in Administrative Case No. 387, *A Review Of The Adequacy Of Kentucky’s Generation And Transmission System*. By order dated March 11, 2021, the Commission converted this case to an electronic proceeding.¹

2. Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal, with the confidential portions highlighted in yellow, those portions of Attachment 2 to its response to Data Request No. 6 for which it is seeking confidential treatment.

A. The Request and the Statutory Standard.

3. The identified portions of the Company’s response to Data Request 6 are required to 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

¹ Order, *A Review Of The Adequacy of Kentucky’s Generation And Transmission System* at 1, Adm. Case No. 387 (Ky. P.S.C. March 11, 2021).

disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

This exception applies to the identified portions of Kentucky Power's response to Data Request No. 6, as the Commission has previously recognized in this proceeding and others.²

Confidential Attachment 2 To The Response To Data Request No. 6.

4. Confidential Attachment 2 to the Company's response to Data Request No. 6 details the specific timing of planned maintenance outages for Kentucky Power's generation units through 2026. The rise of competitive markets such as PJM has placed a premium on generating unit data. Public disclosure of information about unit availability could adversely affect Kentucky Power's customers by providing data that could provide a competitive advantage to Kentucky Power's direct competitors thereby affecting Kentucky Power's ability to minimize costs for its rate paying customers.

5. Unit availability information is especially useful for competition as savvy marketers can estimate Kentucky Power's generation position and raise generation offers if the marketers believe Kentucky Power will be energy short, resulting in the Company paying higher prices to procure energy to serve its customers. This type of data is highly valued by competing energy marketers and traders who speculate in forward energy transactions. Using forecasted unit availability data, other parties could improve their forecast accuracy of future Kentucky Power

² Order, *In The Matter Of: Electronic Review Of The Adequacy Of Kentucky's Generation Capacity And Transmission System*, Admin. Case No. 387 (Ky. P.S.C. November 30, 2022); Order, *In the Matter of: Electronic Omnibus Order Addressing Certain Pending Petitions For Confidential Treatment*, Case No. 2019-00418 at Appendix B, p. 10 (Ky. P.S.C. Dec. 5, 2019) (affording confidential treatment to the same categories of information filed in Kentucky Power's April 30, 2018 responses to the Commission's Order in Administrative Case No. 387). The Commission also granted confidential treatment to similar information as that presented in Kentucky Power's response to Data Request No. 6, pertaining to planned future outages, in its August 23, 2017 order in Case No. 2017-00001. See Order, *In the Matter of: Electronic Examination Of The Application Of The Fuel Adjustment Clause Of Kentucky Power Company From November 1, 2014 Through April 30, 2016*, Case No. 2018-00216 (Ky. P.S.C. August 23, 2017).

operations and utilize the resulting intelligence to influence negatively the Company's costs of providing electricity to its customers. Such actions would ultimately raise the cost to Kentucky Power's customers.

6. Confidential Attachment 2 to the Company's response to Data Request No. 6 should be kept confidential for the period covered by the response (through the end of calendar year 2028). At such time there will no longer be any competitive advantage to be gained from the information.

B. The Identified Information is Generally Recognized As Confidential and Proprietary and Public Disclosure Of It Will Result In An Unfair Commercial Advantage.

10. The identified information required to be disclosed by Kentucky Power in response to the data request is confidential and not generally known or readily ascertainable by other parties through normal or proper means. No reasonable amount of legitimate independent research could yield this confidential information to other parties. Dissemination of the information for which confidential treatment is being requested is restricted by Kentucky Power, its affiliated operating companies, American Electric Power Company, Inc. ("AEP"), and American Electric Power Service Corporation ("AEPSC" together, the "AEP Entities"). The AEP Entities take all reasonable measures to prevent its disclosure to the public as well as persons within the AEP Entities who do not have a need for the information. The information is not disclosed to persons outside the AEP Entities. Within those organizations, the information is available only upon a confidential need-to-know basis that does not extend beyond those employees with a legitimate business need to know and act upon the identified information.

C. The Identified Information Is Required To Be Disclosed To An Agency.

11. The identified information is by the terms of the Commission's Order in Administrative Case No. 387 required to be disclosed to the Commission. The Commission is a

“public agency” as that term is defined at KRS 61.870(1). Any filing should be subject to a confidentiality order and any party requesting such information should be required to enter into an appropriate confidentiality agreement.

WHEREFORE, Kentucky Power Company respectfully requests the Commission to enter an Order:

1. According confidential status to and withholding from public inspection the identified information in Confidential Attachment 2 to the Company’s response to Data Request No. 6 through the end of calendar year 2028; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



Katie M. Glass
STITES & HARBISON PLLC
421 West Main Street
P. O. Box 634
Frankfort, Kentucky 40602-0634
Telephone: (502) 223-3477
Fax: (502) 560-5377
kglass@stites.com

Kenneth J. Gish, Jr.
STITES & HARBISON PLLC
250 West Main Street, Suite 2300
Lexington, Kentucky 40507-1758
Telephone: (859) 226-2300
Fax: (859) 253-9144
kgish@stites.com
COUNSEL FOR KENTUCKY POWER
COMPANY