

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter Of:

Electronic Examination Of The Application of)
The Fuel Adjustment Clause of Kentucky Power)
Company from May 1, 2017 Through October 31,)
2017)
Case No. 2018-00018

MOTION OF KENTUCKY POWER COMPANY
FOR CONFIDENTIAL TREATMENT

Kentucky Power Company (“Kentucky Power” or “Company”) moves the Public Service Commission of Kentucky pursuant to 807 KAR 5:001, Section 13(2), for an Order granting confidential treatment to the identified portions of the following: (1) Attachments 2, 3, and 4 to its response to Commission Staff Data Request 1-4 (“Staff 1-4”), and (2) Attachment 1 to its response to Commission Staff Data Request 1-21 (“Staff 1-21”). Specifically, Kentucky Power seeks confidential treatment of information provided by non-selected third parties in response to written coal-supply solicitations issued by Kentucky Power during the review period (Attachments 2, 3, and 4 to Staff 1-4) and information provided to Kentucky Power under license from *Platts Gas Weekly* and utilized by the Company in performing calculations for determining the Company’s “peaking unit equivalent” (Attachment 1 to Staff 1-21).

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of Attachments 2, 3, and 4 to Staff 1-4 and Attachment 1 to Staff 1-21 containing confidential information with the confidential portions highlighted in yellow. Kentucky Power is also filing redacted versions of the affected documents. Kentucky Power will notify the Commission when 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 of the responses be excluded from the public record and public disclosure.

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

Upon and after July 15, 1992, records confidentially disclosed to an agency or required to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

This exception applies to the following information for which Kentucky Power is seeking confidential treatment:

1. Attachments 2, 3, and 4 to Kentucky Power's Response to Staff 1-4.

Kentucky Power seeks confidential treatment for the identified portions of Attachments 2, 3, and 4 to Staff 1-4. These attachments include information, including key pricing and business terms, provided to the Company by non-selected third parties in response to written coal supply solicitations. The information provides insight into the manner by which Kentucky Power evaluates bids in response to coal-supply solicitations.

Disclosure of this information to the Commission is not prohibited, but the protections afforded by confidential treatment are required. Failure to maintain this information as confidential could have a chilling effect on the willingness of future bidders to submit responses to Kentucky Power coal-supply solicitations.

The confidential information identified in Attachments 2, 3, and 4 to Staff 1-4 should be kept confidential for 5 years.¹ After this time period, changes in the commodities market will

¹ The Commission has afforded confidential treatment to similar information in the past including in Kentucky Power's most recent two-year FAC review. See, Order, *In the Matter Of: An Examination of the Application of the*

mean that the chilling effect of the disclosure of the information will have passed. Prior disclosure will adversely affect the Company's ability to obtain competitive bids in future coal-supply solicitations to the detriment of the Company and its customers.

2. **Attachment 1 to Kentucky Power's Response to Staff 1-21.**

Kentucky Power also seeks confidential treatment for the identified portions of Attachment 1 to its response to Staff 1-21. Attachment 1 to Staff 1-21 provides the Company's calculations and supporting data for determining the "peaking unit equivalent." The cost of power from the Company's peaking unit equivalent is calculated by using the "Columbia Gas Appalachia" natural gas prices as published in *Platts Gas Daily*. Kentucky Power does not own this data. Instead, the data is made available to Kentucky Power through a license agreement with the publisher of *Platts Gas Daily*.

Disclosure of this information to the Commission is not prohibited, but the protections afforded by confidential treatment are required. Public disclosure of the identified information would cause Kentucky Power to violate the terms of its license agreement with the publisher of *Platts Gas Daily*. Such a breach may result in the information no longer being made available to the Company.

Kentucky Power seeks confidential treatment of the identified information in Attachment 1 to Staff 1-21 indefinitely. The identified information belongs to the publisher of *Platts Gas Daily* and not the utility. Absent a waiver of confidential treatment by the publisher, the information should remain confidential indefinitely.²

Fuel Adjustment Clause of Kentucky Power Company from November 1, 2014 through October 31, 2016, Case No. 2017-00001 (Ky. P.S.C. August 23, 2017) ("Two-year Review Confidentiality Order").

² The Commission afforded confidential treatment to similar information in Kentucky Power's most recent two-year FAC review. See Two-year Review Confidentiality Order.

B. The Identified Information is Generally Recognized As Confidential and Proprietary and Public Disclosure Of It Will Result In An Unfair Commercial Advantage for Kentucky Power's Competitors.

The identified information required to be disclosed by Kentucky Power in response to Staff 1-4 and Staff 1-21 is highly confidential. Dissemination of the information for which confidential treatment is being requested is restricted by Kentucky Power, its parent, AEP, and its affiliates (including "AEPSC"). The Company, AEP, and its affiliates take all reasonable measures to prevent its disclosure to the public as well as persons within the Company who do not have a need for the information. The information for which confidential treatment is sought with respect to Staff 1-4 is not disclosed to persons outside Kentucky Power, AEP, or its affiliates. Similarly, the "Columbia Gas Appalachia" natural gas prices as published in *Platts Gas Daily* for which confidential treatment is sought in connection with the Company's response to Staff 1-21 is not disclosed by Kentucky Power, AEP, or its affiliates outside those organizations, but may be disclosed, subject to similar licensing and confidentiality restrictions by Platts. 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.

The identified information is by the terms of the Commission's Order 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; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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