

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

In The Matter Of:

The Electronic Application Of Kentucky Power	)	
Company For Approval Of A Contract For	)	Case No. 2019-00124
Electric Service With M C Mining, LLC	)	

**MOTION FOR CONFIDENTIAL TREATMENT**

Kentucky Power Company moves the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001, Section 13 for an order granting confidential treatment to:

- (a) portions of Kentucky Power’s response to KPSC 1-3(b);
- (b) a portion of Kentucky Power’s response to KPSC 1-3(c); and
- (c) KPCO\_R\_KPSC\_1\_4\_ConfidentialAttachment1.

Each of the above contains customer-specific operational information. The Company’s responses to KPSC 1-3(b) and KPSC 1-3(c) also contain forecasted operational information. Finally, KPSC 1-3(b) and KPCO\_R\_KPSC\_1\_4\_ConfidentialAttachment1 contain information from which the Monthly Economic Development Credit rate, which is the subject of the Company’s pending motion for confidential treatment, may be calculated.

Kentucky Power states in support of its motion:

1. KRS 61.878(1)(c)(1) exempts the following records from public disclosure:  
  
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.

Kentucky Power does not object to filing the 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 pursuant to KRS 61.878(1)(c)(1).

2. Kentucky Power protects customer-specific usage information from public disclosure. Customers expect the Company to protect the confidentiality of their billing and usage information. The Commission previously has recognized the confidentiality of customer-specific usage and billing information.<sup>1</sup>

3. Kentucky Power incorporates by reference herein paragraphs 3-17 and paragraphs 19-24 (including the authority cited therein) of its May 1, 2019 motion for confidential treatment, as well as the affidavit of Jeffrey Brock filed with the motion.

A. The Information For Which Confidential Treatment Is Requested.

4. The portions of the Company's response to KPSC 1-3(b) for which Kentucky Power seeks confidential treatment detail the projected monthly kilowatt-hour (kWh), the projected monthly demand, and the projected Monthly Economic Development Credit for Excel Mine No. 5 for the billing periods August 2019 through January 2021. Each represents customer-specific billing information from which competitors could gain insight into M C Mining, LLC's ("M C Mining") forecasted operations and cost of those operations. In addition, the projected kWh information, in connection with the Monthly Economic Development Credit amount, could be used to "reverse-engineer" the Monthly Economic Development Credit rate by dividing the projected Monthly Economic Development Credit amount by M C Mining's projected monthly kWh. Kentucky Power is seeking confidential treatment of its Monthly Economic Development Credit rate in its pending May 1, 2019 motion.

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<sup>1</sup> See e.g. *In the Matter of: Electronic Application Of Kentucky Power Company For (1) A General Adjustment Of Its Rates For Electric Service; (2) An Order Approving Its 2017 Environmental Compliance Plan; (3) An Order Approving Its Tariffs And Riders; (4) An Order Approving Accounting Practices To Establish Regulatory Assets Or Liabilities; And (5) An Order Granting All Other Required Approvals And Relief*, Case No. 2017-00179 (Ky. P.S.C. Oct. 5, 2017).

5. The forecasted average annual kWh data for Excel Mine No. 5 for the same period that is specified in the Company's response to KPSC 1-3(c) details customer-specific billing information from which competitors also could gain insight into M C Mining's forecasted operations.

6. KPCO\_R\_KPSC\_1\_4\_ConfidentialAttachment1 details M C Mining's monthly bill amount, monthly metered and billed kWh, monthly metered and billed demand, as well as the demand upon which M C Mining's CS-IRP credit is calculated, for the revenue months June 2018 through May 2019. It also details the total calculated Economic Development Credit for the same period using the historical operational information. The historical information constitutes customer-specific operational information. The calculated Economic Development Credit in conjunction with the total historical kWh for the period can be used to approximate the Monthly Economic Development Credit rate.

B. The Information For Which Protection Is Requested Is Confidential And Proprietary Information That Is Not Otherwise Publicly Available.

7. The actual and forecasted customer-specific operational information, the Monthly Economic Development Credit rate, and the information from which the rate could be calculated (the "Confidential Information") are confidential and proprietary. Dissemination of the Confidential Information is restricted by Kentucky Power, its parent, American Electric Power Company, Inc. ("AEP"), and American Electric Power Service Corporation ("AEPSC"). The Company, AEP, and AEPSC take all reasonable measures to prevent its disclosure to the public as well as to persons within the Company and third-party vendors who do not have a need for the information. 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.

8. It is Kentucky Power's understanding that M C Mining similarly protects the Confidential Information.

9. The Confidential Information is not publicly available and cannot be reasonably discerned through lawful methods. No public purpose is served by the disclosure of the Confidential Information.

C. Public Disclosure Of The Confidential Information Will Provide An Unfair Commercial Advantage To The Economic Development Competitors Of Kentucky Power, To Customers Of Kentucky Power Seeking To Negotiate Special Contracts, And Will Impede Kentucky Power's Economic Development Efforts.

10. Public disclosure of the Confidential Information would impede efforts to attract other coal mining companies looking to establish or expand load in Kentucky Power's service territory, as well as with other industrial and commercial enterprises looking to locate in the Company's service territory. Such companies are private entities and have a reasonable expectation that their operational information, particularly forecasted operational information, will not be publicly disclosed.

11. Kentucky Power further anticipates that the Monthly Economic Development Credit rate, and information from which the rate could be calculated, would be the starting point for negotiations and that the prospective enterprises would seek the same or lower rates. Existing customers also could use the Monthly Economic Development Credit rate to seek similar or lower rate treatment. The disclosure of the Monthly Economic Development Credit rate, and information from which the rate could be calculated, would jeopardize the Company's future ability to negotiate future economic development opportunities. The loss of such opportunities would result in injury to Kentucky Power.

12. Public disclosure of the Monthly Economic Development Credit rate also would result in unfair commercial injury to Kentucky Power in connection with its economic development efforts. Kentucky Power competes with other retail electric utilities and economic development entities in the Commonwealth of Kentucky, as well as in other states to attract new commercial and industrial economic prospects, and to retain or expand service to existing commercial and industrial customers.

13. Public disclosure of the Monthly Economic Development Credit rate would hinder Kentucky Power's economic development efforts by allowing retail electric utilities to underbid Kentucky Power in connection with retaining and attracting economic development prospects, or force Kentucky Power to bid a lower rate than might otherwise be required in the absence of the public disclosure to secure the prospective customer. Kentucky Power would suffer unfair commercial injury in either case.

14. Further, M C Mining, LLC operates in competitive national and/or global markets. Releasing M C Mining's billing and usage information will allow competitors of M C Mining to gain specific information regarding an important component of the production costs of its coal. This information is not otherwise known in the competitive marketplace, and the public disclosure will place M C Mining at a distinct competitive disadvantage. As a result of this competitive disadvantage, commercial and industrial customers may be less likely to locate in Kentucky Power's service territory, which will result in harm to Kentucky Power.

D. Kentucky Power Is Required To Disclose The Confidential Information To The Commission.

15. Kentucky Power is required by 807 KAR 5:001, Section 4(12) to provide the Confidential Information to the Commission.

E. The Confidential Information Should Remain Confidential For The Term Of The Special Contract.

16. Kentucky Power requests that the Confidential Information remain confidential and withheld from public disclosure for the term of the Special Contract (approximately fourteen years from its effective date, through May 31, 2033), after which the information will no longer have commercial value.

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

1. According confidential status to and withholding from public inspection the indicated portions of Kentucky Power's response to KPSC 1-3(b); Kentucky Power's response to KPSC 1-3(c); and KPCO\_R\_KPSC\_1\_4\_ConfidentialAttachment1; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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