

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter Of:

An Examination Of The Application Of The Fuel)
Adjustment Clause Of Kentucky Power Company) Case No. 2019-00226
From November 1, 2018 Through April 30, 2019)

Kentucky Power Company's
Motion For Confidential Treatment

Kentucky Power 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 KPCO_R_KPSC_1-04_Confidential_Attachment 2 (low-sulfur) and KPCO_R_KPSC_1-04_Confidential_Attachment 3 (high-sulfur).

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of the identified responses containing confidential information with the confidential portions highlighted in yellow. Kentucky Power also is filing redacted versions of the affected documents. Kentucky Power will notify the Commission when it determines 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 information described below for which Kentucky Power is seeking confidential treatment:

Kentucky Power seeks confidential treatment for the identified portions of KPCO_R_KPSC_1-04_Confidential_Attachment 2 (low-sulfur) and KPCO_R_KPSC_1-04_Confidential_Attachment 3 (high-sulfur). These attachments include information, including key pricing and business terms, provided to the Company by non-selected¹ third parties in response to written solicitations. The information also provides insight into the manner by which Kentucky Power evaluates bids in response to coal-supply solicitations.

Additionally, the information contained in the attachments was designated as confidential by the bidders responding to the 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 may have a chilling effect on the willingness of future bidders to submit responses to Kentucky Power coal-supply solicitations.

The confidential information identified in KPCO_R_KPSC_1-04_Confidential_Attachment 2 (low-sulfur) and KPCO_R_KPSC_1-04_Confidential_Attachment 3 (high-sulfur) should be kept confidential for five years. After five years, changes in the commodities market will 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.

¹ The Company is not seeking confidential treatment for the selected offer.

The Commission granted confidential treatment to similar information in its October 9, 2018 order in Case No. 2018-00216.²

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 the confidential attachments identified above 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 is not disclosed to persons outside Kentucky Power, AEP, or its affiliates. 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. In addition, Kentucky Power and AEPSC have further limited the availability of the information to ensure the integrity of the RFP process.

² Order, *In the Matter of: Electronic Examination Of The Application Of The Fuel Adjustment Clause Of Kentucky Power Company From November 1, 2017 Through April 30, 2018*, Case No. 2018-00216 (Ky. P.S.C. October 9, 2018).

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:
 - (a) KPCO_R_KPSC_1-04_Confidential_Attachment 2 (low-sulfur);
 - (b) KPCO_R_KPSC_1-04_Confidential_Attachment 3 (high-sulfur); and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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