

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic 2019 Integrated Resource	)	
Planning Report Of Kentucky Power	)	Case No. 2019-00443
Company	)	

**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 following identified attachments to certain of the Company’s responses to data requests from the Commission Staff (“KPSC”), the Attorney General of the Commonwealth of Kentucky (“AG”), and Kentucky Industrial Utility Customers, Inc. (“KIUC”):

- KPCO\_R\_KPSC\_1-14\_ConfidentialAttachment1.pdf (“KPSC 1-14”), which includes customer information related to load forecast adjustments;
- KPCO\_R\_AG\_1-02\_ConfidentialAttachment2.xlsx (“AG 1-02”), which includes confidential delivered coal price forecasts;
- KPCO\_R\_AG\_1-10\_ConfidentialAttachment1.pdf (“AG 1-10”), which includes confidential forecasted costs of compliance with environmental regulations;
- KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment1.xlsx, KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment2.xlsx, KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment3.xlsx, KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment4.xlsx, KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment5.xlsx, KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment6.xlsx, KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment7.xlsx, KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment8.xlsx, KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment9.xlsx, KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment10.xlsx, and KPCO\_R\_KIUC\_1\_04\_KP\_ConfidentialAttachment11.xlsx (collectively, “KIUC 1-04”); which include confidential input and output files from Plexos; and

- KIUC\_R\_1\_11\_ConfidentialAttachment1.xlsx, KIUC\_R\_1\_11\_ConfidentialAttachment2.xlsx, KIUC\_R\_1\_11\_ConfidentialAttachment3.xlsx, KIUC\_R\_1\_11\_ConfidentialAttachment4.xlsx, KIUC\_R\_1\_11\_ConfidentialAttachment5.xlsx, KIUC\_R\_1\_12\_ConfidentialAttachment1.xlsx (collectively “KIUC 1-11 and KIUC 1-12”), which include detailed proprietary information of third-party vendors used to prepare non-confidential higher-level tables and graphs included in the Company’s Integrated Resource Plan.

Specifically, Kentucky Power seeks confidential treatment of documents and information responsive to the Commission’s, Attorney General’s, and KIUC’s data requests that contain: (a) confidential customer information (i.e., KPSC 1-14); (b) forecasted fuel cost, capital investments, operation and maintenance expense, and unit performance output data, including information relating to the Company’s generating assets (i.e., AG 1-02, KIUC 1-04); (b) non-public and competitively sensitive information relating to forecasted compliance costs associated with environmental regulations (i.e., AG 1-10); and (d) proprietary information provided to the Company by third parties under agreements that prevent public disclosure (i.e., KIUC 1-11, KIUC 1-12).<sup>1</sup>

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of KPSC 1-14, AG 1-02, AG 1-10, KIUC 1-04, KIUC 1-11 and KIUC 1-12 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 if any of the information for which confidential treatment is sought becomes no longer confidential prior to the timeframes described in this motion.

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<sup>1</sup> Kentucky Power sought and received confidential treatment for similar information in Case No. 2016-00413. *See Order, In the Matter of: Electronic 2016 Integrated Resource Planning Report of Kentucky Power Company to the Public Service Commission of Kentucky*, Case No. 2016-00413 (Ky. P.S.C. Feb. 20, 2019). Kentucky Power is unaware of any instances where the Commission has denied confidential treatment to similar information in other proceedings.

**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 it 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 “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. KPSC 1-14**

The information contained in the confidential response to KPSC 1-14 contains planned customer additions and reductions in load. This is confidential information regarding future operations of customers that Kentucky Power obtains through communication with customers. The information is used by the Company to better plan for resource needs. If this information were disclosed, Kentucky Power’s customers would be reluctant to share such information in the future, which would harm Kentucky Power’s ability to properly plan to meet customer load. This would lead to inefficient planning and more expensive service for all customers as a result.

In addition to the potential harm to Kentucky Power associated with disclosure of this information, the businesses whose data is included in KPSC 1-14 are all in competitive industries, and they must plan appropriately to continue providing services to their customers and attracting and retaining business in their respective markets, including their competitors outside of Kentucky Power’s service territory. If competitors were to know the future expansion/reduction plans of these companies, competitors could use that information (which is not otherwise publicly disclosed) to plan their own expansions/reductions in a way that would

not be possible in the absence of such disclosure, or to otherwise unfairly compete with the identified customers.

The Company requests that the identified information in its response to KPSC 1-14 remain confidential for three years, at which time the information will be sufficiently old as to be of little competitive value.

## **2. AG 1-02**

Kentucky Power's response to AG 1-02 includes coal price forecasts for delivered coal prices to Kentucky Power Company's coal-fired generating units. Kentucky Power's coal plants operate in the PJM market for energy and must determine the appropriate strategy to bid into that market. Coal prices constitute a significant portion of the variable cost for coal plants, and if they were public would put Kentucky Power at a competitive disadvantage related to bidding into the PJM market.

Additionally, Kentucky Power competitively bids coal contracts as needed, and to the extent a supplier knows what Kentucky Power's coal price forecast is, that knowledge could enable a supplier to make a less competitive coal offer in response to a future request for proposals that it otherwise would. If offers are less competitive than they otherwise would be, Kentucky Power and its customers will be harmed through higher costs than would otherwise be incurred.

The Company's forecasted coal costs are not otherwise made public, and they could not be ascertained through any amount of legitimate research. The coal price forecast in AG 1-02 should remain confidential for a period of five years; by such time the information should be sufficiently old so as to no longer be of competitive value to Kentucky Power.

### **3. AG-1-10**

The Company's response to AG 1-10 contains information relating to forecasted compliance costs associated with environmental regulations. The estimated compliance costs associated with environmental regulations represent the Company's estimate of the costs associated with possible compliance scenarios under these regulations. The cost estimates were developed using knowledge that is not readily available outside the Company, including engineering studies and pilot projects conducted for the Company by third parties at significant cost. Such information could be used by other parties to develop their own cost estimates without performing the same analysis, and incurring the same costs, that the Company performed and incurred to obtain the information. Such actions would add disproportionately to the Company's compliance costs when compared to similar companies, thus disadvantaging Kentucky Power and its customers. Competitors could also use these compliance costs to estimate impacts to Kentucky Power's cost. In the competitive PJM market, information about Kentucky Power's costs could be used by competitors to gain a competitive advantage over the Company in its daily participation in the PJM energy and ancillary services markets as well as the PJM capacity auctions, to the detriment of the Company's customers.

The Company's forecasted environmental compliance costs are not generally known or readily ascertainable by other parties through normal or proper means, and no reasonable amount of legitimate independent research could enable other parties to determine them. The confidential nature of this data should be maintained until the compliance requirements are certain and the earlier of the date the costs are publicly disclosed or are actually incurred. Therefore, the Company requests that the identified information in its response to AG 1-10



remain confidential for ten years, at which time the forecast will be sufficiently old as to be of little competitive value.

#### **4. KIUC 1-04**

Kentucky Power's response KIUC 1-04 includes unit-specific performance data, including information such as heat rate curves, fuel costs, capital investment, and variable operation and maintenance costs. The rise of competitive markets such as PJM has placed a premium on generating unit data. The detail of the information provides highly sensitive data about the unique operation, costs, and performance of the Company's generating units. If disclosed publicly, the Company's competitors would be able to use this information to gain a competitive advantage over the Company in its daily participation in the PJM energy and ancillary service markets, as well as the PJM capacity auctions and other electricity market activities. This detailed information is not provided publicly and could lead to direct harm to the Company and its customers through higher energy and capacity costs.

Unit-specific data is especially useful for competition as savvy marketers can estimate Kentucky Power's generation position and raise generation offers if they 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 performance data, other parties could improve their forecast accuracy of future Kentucky Power operations and use 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.

The Company's unit-specific performance data is not generally known or readily ascertainable by other parties through normal or proper means. No reasonable amount of legitimate independent research could enable other parties to determine it. Because the public

release of this information could put the Company at a competitive disadvantage in the PJM capacity auctions, which are held three years in advance of delivery, as well as in other transactions, the Company requests that the information remain confidential for three years.

#### **5. KIUC 1-11 and KIUC 1-12**

Kentucky Power's responses to KIUC 1-11 and KIUC 1-12 include the proprietary and copyrighted property of Bloomberg New Energy Financial ("BNEF" or "Bloomberg"), Wartsila Corporation (Wartsila), General Electric ("GE"), and Mitsubishi Hitachi Power Systems ("MHPS"). Kentucky Power is a subscriber of and/or a recipient of proprietary data published by each of Bloomberg, Wartsila, GE, and MHPS. Pursuant to its subscription and confidentiality agreements with these third-party vendors, Kentucky Power is prohibited from reproducing, transmitting, forwarding, or distributing these vendors' proprietary documents or their contents without the consent of the applicable vendor. Bloomberg, Wartsila, GE, and MHPS each derives revenue and profits from the sale of publications and sources from which the information contained in the Company's responses to KIUC 1-11 and KIUC 1-12 is derived, and the dissemination of this content without confidential protection would deprive these vendors of revenue from sale of subscriptions and publications to those member of the public who otherwise would contract with the vendors but for the unauthorized publication of their proprietary information.

Disclosure of this information where required by law is not prohibited by the applicable subscription and confidentiality agreements, 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 market data providers such as Bloomberg, Wartsila, GE, and MHPS to enter into subscription agreements with Kentucky Power. Without current market data, such as that provided under the subscription agreement with these vendors, Kentucky Power would be

unable to properly conduct resource planning activities to the detriment of the Company's customers and would be hampered in its ability to compete in the market.

These proprietary vendor data are not generally known or readily ascertainable by other parties through normal or proper means other than paying Bloomberg, Wartsila, GE, and MHPS for a subscription for the applicable information. No reasonable amount of legitimate independent research could yield the same information to other parties. Kentucky Power seeks confidential treatment of the identified information in KIUC 1-11 and KIUC 1-12 for a period of five years. The identified information will be sufficiently out of date at the end of the five-year period so that it no longer will have commercial value.

**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 KPSC 1-14, AG 1-02, AG 1-10, KIUC 1-04, KIUC 1-11, and KIUC 1-12 is highly confidential. Dissemination of the information for which confidential treatment is being requested is restricted by Kentucky Power, American Electric Power Company Service Corporation ("AEPSC"), and their affiliates. The Company, AEPSC, and their affiliates take all reasonable measures to prevent its disclosure to the public as well as to persons within the Company and its affiliates who do not have a need for the information. The information is not disclosed to persons outside Kentucky Power, AEPSC, or its affiliates other than subject to confidentiality obligations.

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

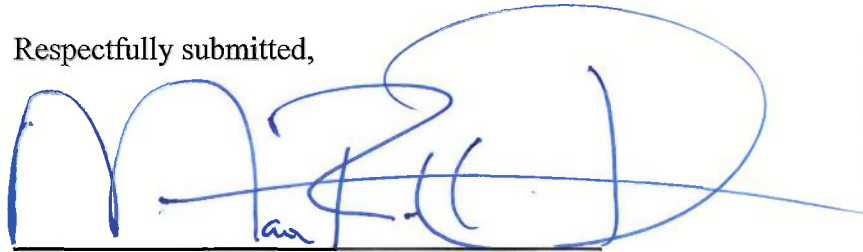
The identified information is required by the terms of the Commission's Order to be disclosed to the Commission. The Commission is a "public agency" as that term is defined at KRS 61.870(1). Any filing should be subject to a confidentiality order and any party requesting such information should be required 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,

A handwritten signature in blue ink, appearing to read 'Mark R. Overstreet', is written over a horizontal line. The signature is stylized and somewhat illegible due to the cursive nature of the handwriting.

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