

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

In the Matter of:

Electronic Application Of Kentucky Power Company)
For (1) A General Adjustment Of Its Rates For Electric)
Service; (2) Approval Of Tariffs And Riders; (3))
Approval Of Accounting Practices To Establish) Case No. 2020-00174
Regulatory Assets And Liabilities; (4) Approval Of A)
Certificate Of Public Convenience And Necessity;)
And (5) All Other Required Approvals And Relief)

**Kentucky Power Company’s Motion
For Confidential Treatment**

Kentucky Power Company (“Kentucky Power” or “Company”) moves the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001, Section 13(2), and KRS 61.878(1)(c) and (k) for an Order granting confidential treatment to the identified portions of the following attachments to its data request responses:

- (1) Attachment 1 to its response to Commission Staff Data Request 10-11 (“KPSC 10-11”); and
- (2) Attachment 1 to its response to Commission Staff Data Request 10-13 (“KPSC 10-13”).

Specifically, Kentucky Power seeks confidential treatment of information relating to:

- (i) competitively sensitive pricing information (Attachment 1 to KPSC 10-11); and
- (ii) information derived from competitively sensitive third-party data and reports (Attachment 1 KPSC 10-13).

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of the attachments 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 it determines the information for which confidential treatment is sought is no longer confidential.

I. MOTION FOR CONFIDENTIAL TREATMENT

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) excludes from the Open Records Act:

(c) (1) 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.

...

(k) All public records or information the disclosure of which is prohibited by federal law or regulation;

These exceptions apply to the following information for which Kentucky Power is seeking confidential treatment:

1. **Attachment 1 to KPSC 10-11.**

Attachment 1 to KPSC 10-11 contains the updated forecasted forward pricing information that the Company utilized to determine the avoided energy costs included in its Tariff COGEN/SPP I and Tariff COGEN/SPP II. The Company previously provided similar confidential information under seal in response to the Staff Data Request 4-102.

If Kentucky Power's pricing forecasts were publicly disseminated, competitors could formulate competitive bidding strategies that would hamper the Company's ability to compete, cause Kentucky Power's units to operate/sell less, and ultimately cost more to operate, thereby resulting in higher costs for the Company's customers. Such information might permit a competitor to underbid Kentucky Power based on an unfair commercial advantage. Such a result which would be detrimental not only to Kentucky Power but to the marketplace as well.

Kentucky Power also derives independent economic value from the subject information not being generally known to, and not being readily ascertainable by other persons who can obtain economic value from its disclosure or use. Accordingly, Kentucky Power would be placed at a competitive disadvantage vis-à-vis other electric utilities buying and selling in the wholesale market if required to disclose the information publicly.

The confidential information identified in Attachment 1 to KPSC 10-11 should be kept confidential through the end of 2025 (the forecast period). At such time there will no longer be any competitive advantage to be gained from the information. The Commission previously granted confidential protection to similar information through the end of the forecast period.¹

(i) KPSC 10-13

Attachment 1 to KPSC 10-13 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 the effect of compliance on Kentucky Power's costs. In the competitive PJM market, information about Kentucky Power's

¹ See Order, p. 5, ordering ¶ 2 (Ky. P.S.C. Oct. 27, 2020).

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 KPSC 10-13 remain confidential for 10 years, at which time the forecast will be sufficiently old as to be of little competitive value. The Commission previously granted confidential protection to similar information for a period of 10 years.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 response to KPSC 10-11 and KPSC 10-13 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 American Electric Power Service Corporation). The Company, AEP, and its affiliates (and third party vendors where applicable) take all reasonable measures to prevent its disclosure to the public as well as persons within the Company and third-party vendors who do not have a need for the information. The information is not disclosed to persons outside Kentucky

² See *id.*, p. 5, ordering ¶ 5 (Ky. P.S.C. Oct. 27, 2020); see also Order, *In the Matter of: Electronic 2019 Integrated Resource Planning Report of Kentucky Power Company*, Case No. 2019-00443, at 3 (Ky. P.S.C. Jul. 2, 2020) (granting Kentucky Power's request for confidential treatment of the same information filed in response to the Attorney General of the Commonwealth of Kentucky's First Request for Information, Item 10).

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.

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 in 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 Attachment 1 to KPSC 10-11 through the end of 2025;
2. According confidential status to and withholding from public inspection the identified information in Attachment 1 to KPSC 10-13 for a period of 10 years; and
3. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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