

**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 Amended Motion
For Confidential Treatment**

Kentucky Power Company (“Kentucky Power” or “Company”) on December 4, 2020 moved the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001, Section 13(2), and KRS 61.878(1) for an Order granting confidential treatment to the stenographic transcripts of the November 17, 2020, November 19, 2020, and November 23, 2020 confidential sessions of the hearing in this matter. The Commission directed Kentucky Power on December 9, 2020 to amend its request for confidential treatment to include the period for which confidential treatment is sought, and the dates of the orders by which the Commission previously granted confidential treatment for the designated material.

The information that formed the basis for questioning in the November 17, 2020 and November 19, 2020 confidential sessions was described as being confidential either by Staff or by a member of the Commission. Because the Commission is able to speak only through its written orders,¹ Kentucky Power understood the statements regarding the confidential status of the information to be *sua sponte* motions by the Commission member or Staff for confidential treatment of the information, and that the Commission intended to enter a written order

¹ *Inter-County Rural Elec. Coop. Coop. v. Pub. Serv. Comm'n.* 407 S.W.2d 127, 130 (Ky. 1966).

subsequently. As a result, the Company described in its December 4, 2020 motion the information giving rise to the confidential sessions as being materials “previously granted confidential treatment by orders of the Commission, *or that were the subject of pending motions for confidential treatment.*”²

Kentucky Power submits the following additional information in support of its December 4, 2020 Motion for Confidential Treatment.

The information for which Kentucky Power seeks confidential treatment is contained in confidential transcripts and includes testimony given by Company witnesses during confidential session of the hearing in this matter on November 17, 2020, November 19, 2020, and November 23, 2020. The chart attached as **Exhibit 1** specifies the following information for each item contained in the confidential transcripts for which confidential treatment is sought:

- The date of the transcript containing the confidential testimony;
- The topic discussed;
- The witness testifying;
- The questioner and person requesting the confidential hearing session;
- The applicable section of KRS 61.878 under which confidential treatment is sought;
- The period for which confidential treatment is sought if known to Kentucky Power; and
- The date of any previous Commission order granting confidential protection for that information or the date of the indication by Staff or a Commissioner of its confidential nature.

² Kentucky Power Company’s Motion for Confidential Treatment, *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 Regulatory Assets And Liabilities; (4) Approval Of A Certificate Of Public Convenience And Necessity; And (5) All Other Required Approvals And Relief*, Case No. 2020-00174 at 1 (Ky. P.S.C. Filed December 4, 2020) (emphasis supplied).

Rows one through four in Exhibit 1 pertain to testimony given by Company Witness Satterwhite on November 17, 2020 in response to cross-examination by Ms. Vinsel regarding KPSC Confidential Hearing Exhibits 1 through 4. Ms. Vinsel requested that the Commission go into confidential session to discuss these exhibits,³ and was the only party that questioned Mr. Satterwhite during that confidential session. Ms. Vinsel indicated by email prior to the hearing that the information contained in KPSC Confidential Hearing Exhibits 1 through 4 was confidential because they “consist of information obtained through PSC paid subscriptions.” *See* November 13, 2020 Email, attached hereto as **Exhibit 2**.

The Company lacks knowledge as to the terms of the Commission’s subscription agreements, but notes that the Company sought confidential treatment for its own subscription information and that the Commission granted confidential treatment by order dated November 16, 2020. The Commission ordered that the Company’s subscription information be kept confidential for an indefinite period. Testimony in response to these exhibits comprises the entirety of the Confidential Hearing Transcript for November 17, 2020.

Row five in Exhibit 1 pertains to testimony given by Company Witness Messner on November 19, 2020 in response to cross-examination by Vice Chairman Chandler regarding the existence or non-existence of possible confidential business transactions involving Kentucky Power. Vice Chairman Chandler requested that the Commission go into confidential session to discuss this information⁴ and was the only person who questioned Mr. Messner during that confidential session. Testimony about this information comprises the entirety of the Confidential Hearing Transcript for November 19, 2020.

³ Tr. Hearing Vol. I at 156 (December 4, 2020).

⁴ Tr. Hearing Vol. III at 840 (December 4, 2020).

The Vice-Chairman did not expressly indicate the basis for requesting the confidential session. Kentucky Power agrees that the existence or non-existence of such possible confidential business transactions that were the subject of the confidential session is highly confidential, that the public disclosure of their existence or non-existence would cause competitive injury to Kentucky Power, and that their existence or non-existence should be kept confidential for a period of two years, after which it will no longer have competitive commercial value.

Row six in Exhibit 1 pertains to testimony given by Company Witness Vaughan on November 23, 2020 in response to cross-examination by Vice Chairman Chandler regarding information contained in Attachment 1 to the Company's Response to Staff Data Request Set 5, Item 6 ("Attachment 1 to Staff 5-6"), and related information about off-system sales margins. Vice Chairman Chandler requested that the Commission go into confidential session to discuss this information⁵ and was the only party that questioned Mr. Vaughan during that confidential session.

Attachment 1 to Staff 5-6 contains information regarding each of Kentucky Power's generating unit's availability and offering status for the past three calendar years. The Company was previously granted confidential protection for a period of two years for Attachment 1 to Staff 5-6 by Order dated October 27, 2020. The entirety of the Confidential Hearing Transcript for November 23, 2020 is comprised of testimony describing or discussing the contents of Attachment 1 to Staff 5-6, or information regarding off-system sales margins derived from the information contained in Attachment 1 to Staff 5-6. Therefore, the Company requests that the confidential treatment granted by the Commission in its October 27, 2020 Order to Attachment 1 to Staff 5-6 be extended to the entirety of the Confidential Transcript for November 23, 2020 for the same period of two years.

⁵ Tr. Hearing Vol. V at 1450, 1457 (December 4, 2020).

For the reasons stated herein, the confidential transcripts previously identified by the Company's December 4, 2020 Motion for Confidential Treatment should be accorded confidential treatment for the periods indicated in Exhibit 1. Kentucky Power will notify the Commission if the Company determines prior to the end of the period for which confidential treatment is sought that the stenographic transcripts are no longer confidential.

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

1. According confidential status to the stenographic transcripts of the November 17, 2020, November 19, 2020, and November 23, 2020 confidential sessions of the hearing in this matter for the periods indicated in Exhibit 1; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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COUNSEL FOR KENTUCKY POWER
COMPANY

Exhibit 1

EXHIBIT 1

	Date of hearing transcript containing confidential testimony	Topic of confidential testimony	Company Witness testifying	Questioner/party requesting confidential hearing session	Applicable section of KRS 61.878	Period for which confidential treatment is sought	Date of Commission Order previously granting confidential protection
1.	11-17-20	KPSC Confidential Exhibit 2	Satterwhite	Ms. Vinsel	Similar Company subscription information was granted confidential treatment pursuant to KRS 61.878(1)(c)(1)	Similar Company subscription information was granted confidential treatment for an indefinite period.	Described as being subject to confidential treatment in November 13, 2020 e-mail communication from Staff. Similar Company subscription information was granted confidential treatment by Order dated November 16, 2020.
2.	11-17-20	KPSC Confidential Exhibit 1	Satterwhite	Ms. Vinsel	Similar Company subscription information was granted confidential treatment pursuant to KRS 61.878(1)(c)(1)	Similar Company subscription information was granted confidential treatment for an indefinite period.	Described as being subject to confidential treatment in November 13, 2020 e-mail communication from Staff. Similar Company subscription information was

EXHIBIT 1

	Date of hearing transcript containing confidential testimony	Topic of confidential testimony	Company Witness testifying	Questioner/party requesting confidential hearing session	Applicable section of KRS 61.878	Period for which confidential treatment is sought	Date of Commission Order previously granting confidential protection
							granted confidential treatment by Order dated November 16, 2020.
3.	11-17-20	KPSC Confidential Exhibit 4	Satterwhite	Ms. Vinsel	Similar Company subscription information was granted confidential treatment pursuant to KRS 61.878(1)(c)(1)	Similar Company subscription information was granted confidential treatment for an indefinite period.	Described as being subject to confidential treatment in November 13, 2020 e-mail communication from Staff. Similar Company subscription information was granted confidential treatment by Order dated November 16, 2020.
4.	11-17-20	KPSC Confidential Exhibit 3	Satterwhite	Ms. Vinsel	Similar Company subscription information was granted confidential treatment pursuant	Similar Company subscription information was granted confidential	Described as being subject to confidential treatment in November 13, 2020 e-mail

EXHIBIT 1

	Date of hearing transcript containing confidential testimony	Topic of confidential testimony	Company Witness testifying	Questioner/party requesting confidential hearing session	Applicable section of KRS 61.878	Period for which confidential treatment is sought	Date of Commission Order previously granting confidential protection
					to KRS 61.878(1)(c)(1)	treatment for an indefinite period.	communication from Staff. Similar Company subscription information was granted confidential treatment by Order dated November 16, 2020.
5.	11-19-20	The existence or non-existence of possible confidential business transactions	Messner	Vice Chairman Chandler	61.878(1)(c)(1)	Two years.	Discussed in the confidential session requested by Vice-Chairman Chandler who posed the question during the confidential session.
6.	11-23-20	KPCO_R_KPSC_5-6 Attachment 1: Summary of Hourly Generation Market Results; and off-system sales margins	Vaughan	Vice Chairman Chandler	KRS 61.878(1)(c)(1)	Two years	October 27, 2020

Exhibit 2

Overstreet, Mark R.

From: Vinsel, Nancy (PSC) <Nancy.Vinsel@ky.gov>
Sent: Friday, November 13, 2020 7:28 AM
To: Overstreet, Mark R.; Glass, Katie; cblend@aep.com; West, Michael (KYOAG); Horne, John G (KYOAG); Cook, Larry (KYOAG); Goad, Angela M (KYOAG); mkurtz@BKLawfirm.com; jkylern@BKLawfirm.com; kboehm@BKLawfirm.com; Matthew Miller; David Spenard; Carrie H. Grundmann; Joe Childers; FitzKRC@aol.com; maf@jenkinsfenstermaker.com; hgarcia1@aep.com; dparker@spilmanlaw.com; Randal Strobo; tswolffram@aep.com
Cc: Frederick, Tina (PSC)
Subject: KY PSC Case No. 2020-00174 - PSC Hearing Exhibits - 1 of 5 emails - Confidential Exhibits 1-4
Attachments: PSC Confidential Exhibit 2 AEP 5 yr Cap Plan 11_9_20.pdf; PSC Confidential Exhibit 3 Road to Transcos 1_2_14.pdf; PSC Confidential Exhibit 4 Transmission Rate Base.pdf; PSC Confidential Exhibit 1 AEP Transco 9_14_20.pdf

[External Sender]

Counsel,

I am emailing the PSC exhibits via 5 emails. This group contains Confidential Exhibits 1-4, which consist of information obtained through PSC paid subscriptions.

Thank you, Nancy

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