

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

In the Matter of:

Electronic Application Of Kentucky Power Company)	
For Approval of A Certificate of Public Convenience)	
And Necessity For Environmental Project)	
Construction At The Mitchell Generating Station, An)	Case No. 2021-00004
Amended Environmental Compliance Plan, And)	
Revised Environmental Surcharge Tariff Sheets)	

**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)(a), (c), (k), and (m) for an Order granting confidential treatment to the identified portions of the following attachments to its data request responses:

- (1) Attachments 3, 7, 8, 9, 10, 11, 12, 13, 14 and 15 to its response to Attorney General and Kentucky Industrial Utility Customers, Inc.’s (“AG-KIUC”) Data Request 1-2 (“AG-KIUC 1-2”);
- (2) Attachment 2 to its response to AG-KIUC’s Data Request 1-14 (“AG-KIUC 1-14”);
- (3) Attachment 4 to its response to AG-KIUC’s Data Request 1-29 (“AG-KIUC 1-29”); and
- (4) Attachment 1 to its response to Sierra Club’s Data Request 1-5 (“Sierra Club 1-5”).

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

- (i) Confidential vendor/supplier pricing information (Attachment 3 to AG-KIUC 1-2);
- (ii) Competitively sensitive cost and generating unit-specific information (Attachments 7, 8, 9, 10, 11, 12, 13, 14 and 15 to AG-KIUC 1-2);
- (iii) Non-public Projected Capacity Factors (steam) through 2040 (Attachment 2 to AG-KIUC 1-14);

(iv) Variable rate O&M forecast for Mitchell and Big Sandy used to calculate variable O&M through 2050 (Attachment 4 to AG-KIUC 1-29); and

(v) Non-public forecasted nominal delivered cost of coal for Mitchell on a \$/MMBTU basis through 2040 (Attachment 1 to Sierra Club 1-5).

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 or, where an entire document is confidential, is filing the entire document under seal. Kentucky Power is also filing public versions of the relevant documents. Kentucky Power will notify the Commission in the future if the Company determines the information for which confidential treatment is sought is no longer confidential prior to the end of the period for which confidential treatment is requested herein.

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.

This exception applies to the following information for which Kentucky Power is seeking confidential treatment:

1. Attachment 3 to AG-KIUC 1-2.

Attachment 3 to AG-KIUC 1-2 contains vendor/supplier confidential pricing information. Contracts between Kentucky Power and its vendors are considered confidential information by

the parties to those contracts. Confidentiality provisions are generally included in the contracts that preclude Kentucky Power from making the information sought by the Staff publicly available. Disclosure of the responses will place both the vendor names and pricing information together in the public domain. This will allow competitors of the current vendors to reverse engineer the bids made by the current bidders. The competitors can then use that information to their competitive advantage in future dealings with Kentucky Power and other AEP operating companies that have implemented programs similar to the Kentucky Power program at issue.

Public disclosure of the confidential information concerning vendor pricing will lead to a decrease in confidence for potential vendors that otherwise would work with Kentucky Power on current and future projects. The vendors take steps to safeguard the confidentiality of the information at issue and public disclosure will pose problems for them to the extent they offer similar services to other customers at different prices. A reduction of qualified vendors bidding on Kentucky Power projects could reasonably be expected to occur going forward since vendors will know that their pricing to Kentucky Power will not be afforded confidential protection. This places Kentucky Power at a competitive disadvantage vis-à-vis other utilities.

Due to the terms of the contract with the vendor, Kentucky Power's confidentiality obligation is indefinite at this time. Kentucky Power therefore requests the identified information in Attachment 3 to AG-KIUC 1-2 be kept confidential for a period of ten years.

2. Attachments 7, 8, 9, 10, 11, 12, 13, 14 and 15 to AG-KIUC 1-2.

Attachments 7, 8, 9, 10, 11, 12, 13, 14 and 15 to AG-KIUC 1-2 contain competitively sensitive information such as: supplier designs; generation investment decisions; plant operational data; project, plant and fuel costs, including projected fixed costs through 2040, transmission costs through 2050, projected ongoing capital through 2040, and average fuel costs through 2040; projected non-fuel O&M through 2040, projected variable production costs

through 2040, planning peak loads through 2050, emissions costs through 2050, projected peak capacity demands through 2050, generating capabilities through 2050; and margins (UCAP) through 2050.

If disclosed, the information could diminish the Company's bargaining position and, as a result, increase Kentucky Power's cost of service. This information would be valuable to potential buyers, lessors, lenders, and maintainers of AEP's generating assets and to potential developers, builders, sellers, lessors, and lenders of non-emitting generating assets. Moreover, Kentucky Power's competitors do not release this type of information.

The Company estimates that after ten years the factors that drive the market will render the information provided in Attachments 7, 8, 9, 10, 11, 12, 13, 14 and 15 to AG-KIUC 1-2 of limited competitive value. Therefore, Kentucky Power requests the identified information in Attachments 7, 8, 9, 10, 11, 12, 13, 14 and 15 to AG-KIUC 1-2 be kept confidential as competitively sensitive information for a period of ten years.

3. Attachment 2 to AG-KIUC 1-14, Attachment 4 to AG-KIUC 1-29, and Attachment 1 to Sierra Club 1-5.

Attachment 2 to AG-KIUC 1-14 contains non-public Projected Capacity Factors (steam) through 2040. The public disclosure of the Confidential Information contained in Attachment 2 to AG-KIUC 1-14 is likely to provide an unfair competitive advantage to the Company's competitors. The attachment includes forecasted operating information concerning Kentucky Power's generating units. Information similar to that contained in Attachment 2 to AG-KIUC 1-

14 was accorded confidential treatment by Order of the Commission in Case No. 2016-00413¹ and 2019-00443.²

Attachment 4 to AG-KIUC 1-29 contains the variable rate O&M forecast for Mitchell and Big Sandy used to calculate variable O&M through 2050. This attachment includes confidential and proprietary information, the disclosure of which is likely to provide an unfair competitive advantage. Similar information was provided confidential treatment by the Commission in Case No. 2013-00475.³

Attachment 1 to Sierra Club 1-5 provides non-public forecasted nominal delivered cost of coal for Mitchell on a \$/MMBTU basis through 2040, which also constitutes confidential and proprietary information, the disclosure of which is likely to provide an unfair competitive advantage. The Commission previously granted confidential treatment to similar information in the Company's 2019 fuel adjustment clause investigation.⁴

Although Kentucky Power's retail rates are regulated by the Commission, the Company makes substantial sales through PJM Interconnection, LLC of electric energy into the competitive interstate wholesale electricity market. The disclosure of the projections in Attachment 2 to AG-KIUC 1-14 would permit an unfair commercial advantage to Kentucky Power's competitors and suppliers. Public disclosure of such cost data and operating information in Attachment 4 to AG-KIUC 1-29 could prove damaging to the Company in both

¹ See Order, *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).

² See Order, *Electronic 2019 Integrated Resource Planning Report Of Kentucky Power Company*, Case No. 2019-00443 (Ky. P.S.C. Jul. 2, 2020).

³ See Order, *Electronic 2019 Integrated Resource Planning Report Of Kentucky Power Company*, Case No. 2013-00475 (Ky. P.S.C. Jul. 18, 2014).

⁴ Order, *Electronic Examination Of The Application Of The Fuel Adjustment Clause Of Kentucky Power Company From November 1, 2016 Through October 31, 2018*, Case No. 2019-00002 (Ky. P.S.C. Jan. 7, 2020).

current and future competitive marketplaces, and would place Kentucky Power at a significant disadvantage in the marketplace. Forecasts such as the information contained in Sierra Attachment 1 to Sierra Club 1-5, constitute competitively-sensitive, proprietary information used by Kentucky Power in the pricing of its competitive products.

If Kentucky Power's costs and operating projections are publicly known, competitors and suppliers can formulate competitive bidding strategies that will hamper the Company's ability to compete against them, 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.

Finally, Kentucky Power 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. Kentucky Power requests that the confidential information comprising Attachment 2 to AG-KIUC 1-14, Attachment 4 to AG-KIUC 1-29, and Attachment 1 to Sierra Club 1-5 be treated as confidential and withheld from public disclosure for a period of 10 years. At such time there will no longer be any competitive advantage to be gained from the information.

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 Attachments 3, 7, 8, 9, 10, 11, 12, 13, 14 and 15 AG-KIUC 1-2, Attachment 2 to AG-KIUC 1-14,

Attachment 4 to AG-KIUC 1-29, and Attachment 1 to Sierra Club 1-5 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 (“AEPSC” and the affected operating company affiliates). 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.

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 contained in Attachment 3 to AG-KIUC 1-2 for a period of ten years
2. According confidential status to and withholding from public inspection the identified information contained in Attachments 7, 8, 9, 10, 11, 12, 13, 14 and 15 to AG-KIUC 1-2 for a period of ten years;

3. According confidential status to and withholding from public inspection the identified information contained in Attachment 2 to AG-KIUC 1-14, Attachment 4 to AG-KIUC 1-29, and Attachment 1 to Sierra Club 1-5 for a period of ten years; and

4. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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