

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

In the Matter of:

ELECTRONIC INVESTIGATION OF THE)	
SERVICE, RATES AND FACILITIES OF)	Case No. 2021-00370
KENTUCKY POWER COMPANY)	

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), for an Order granting confidential treatment to the entirety of Attachment 1 to the Company’s response to Commission Staff’s Second Request for Information, Item 11 (“KPSC 2-11”). Attachment 1 to KPSC 2-11 is comprised of all of the responses to the Company’s 2023 All-Source Request for Proposal (“RFP”) for generation resources.

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing the entire attachment under seal. Kentucky Power is also filing a redacted version of the 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.

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

1. Attachment 1 to KPSC 2-11.

Attachment 1 to KPSC 2-11 is comprised of all responses to the Company's September 22, 2023 All-Source RFP for generation resources, which were provided to the Company on a confidential basis by the respondents pursuant to a non-disclosure agreement. The Company is presently in the process of evaluating each of these bids, and thus, this information pertains to active bids. Public disclosure could provide insight into the manner by which Kentucky Power evaluates bids in response to the RFP, potentially impairing the current evaluation process or future processes. Disclosure of this information also could result in potential bidders pulling their bids and dropping out from consideration, or otherwise frustrating or impairing the Company's ongoing evaluation. Additionally, the bids contain confidential pricing information that would be harmful if disclosed public as to Kentucky Power and the bidders. With respect to the bidders, public disclosure of this information would make public bidders' pricing and offers in the open market, which could be accessed and used to the advantage of other bidders. If offers are less competitive than they otherwise would be, Kentucky Power and its customers may be harmed through higher costs than would otherwise be incurred. Finally, failure to maintain this information as confidential may have a chilling effect on the willingness of future bidders to submit responses to Kentucky Power RFPs.

For the reasons stated herein, the information comprising Attachment 1 to KPSC 2-11 should be accorded confidential treatment indefinitely. The Commission previously treated this type of information confidentially in the November 30, 2023 hearing in the Company's most recent

base rate case, Case No. 2023-00159, when the Commission went into confidential session to discuss the high-level details of the responses to Kentucky Power's September 22, 2023 All-Source RFP for generation resources. The Company requested confidential treatment of the confidential hearing transcript that contains that discussion in that case.¹

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 in Attachment 1 to KPSC 2-11 that is required to be disclosed by Kentucky Power under Commission regulations 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")). 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 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 regulations required to be disclosed to the Commission. The Commission is a "public agency" as that term is defined in

¹ See 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) A Securitization Financing Order; And (5) All Other Required Approvals And Relief*, Case No. 2023-00159 (Filed December 8, 2023).

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 respectfully requests the Commission to enter an Order:

1. According confidential status to and withholding from public inspection the entirety of Attachment 1 to KPSC 2-11 indefinitely; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



Katie M. Glass
STITES & HARBISON PLLC
421 West Main Street
P. O. Box 634
Frankfort, Kentucky 40602-0634
Telephone: (502) 223-3477
Fax: (502) 560-5377
kglass@stites.com

Kenneth J. Gish, Jr.
STITES & HARBISON PLLC
250 West Main Street, Suite 2300
Lexington, Kentucky 40507-1758
Telephone: (859) 226-2300
Fax: (859) 253-9144
kgish@stites.com
COUNSEL FOR KENTUCKY POWER
COMPANY