

**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 Attachments 1, 2, 3, 4, and 5 to the Company’s response to Commission Staff’s Third Request for Information, Item 7 (“KPSC 3-7”). Attachments 1 through 5 to KPSC 3-7 are comprised of information updating the Commission as to the status of the confidential responses to the Company’s 2023 All-Source Request for Proposal (“RFP”) for generation resources and the Company’s evaluation of the same (Attachment 1), as well as copies of form documents provided confidentially by the Company to all RFP bidders (Attachments 2, 3, 4, and 5).

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

#### 1. **Attachments 1 through 5 to KPSC 3-7.**

Attachment 1 to KPSC 3-7 is comprised of information concerning the status of the confidential responses to the Company's September 22, 2023 All-Source RFP for generation resources, and the Company's evaluation of the same. Attachments 2, 3, 4, and 5 to KPSC 3-7 are comprised of form documents related to the RFP provided confidentially by the Company to all RFP bidders. The Company previously provided to the Commission in response to Commission Staff's Second Request for Information, Item 11, 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 likewise sought confidential treatment of that information. The information contained in Attachments 1 through 5 of KPSC 3-7 is confidential and should be granted confidential treatment by the Commission for those same reasons.

The Company is presently in the process of evaluating RFP bids, and thus, the information contained in the attachments pertains to active bids. Specifically, the form documents comprising Attachments 2 through 5 also contain confidential potential agreement terms that would be harmful as to Kentucky Power and the bidders if disclosed publicly. Public disclosure of this information could provide insight into the manner by which Kentucky Power evaluates bids in response to the RFP, as well as the confidential preliminary terms of potential future agreements resulting from the RFP process. Such public disclosure could potentially impair the current evaluation process or future processes, thus harming Kentucky Power and its customers. 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. 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 Attachments 1 through 5 to KPSC 3-7 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.<sup>1</sup>

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<sup>1</sup> 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).

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 Attachments 1 through 5 to KPSC 3-7 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 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 Attachments 1, 2, 3, 4, and 5 to KPSC 3-7 indefinitely; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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