

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

In the Matter of:

An Electronic Examination Of The Application Of )	
The Fuel Adjustment Clause Of Kentucky Power )	
Company From May 1, 2021 Through October 31, )	Case No. 2021-00036
2021 )	

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

Kentucky Power Company moves the Public Service Commission of Kentucky pursuant to 807 KAR 5:001, Section 13(2), for an Order granting confidential treatment to the identified portions of KPCO\_SR\_PSC\_1-04\_Confidential\_Supplemental\_Attachment\_2 (“Supplemental Attachment 2 to KPSC 1-4”) and to the entirety of KPCO\_R\_PSC\_2-07\_Confidential\_Attachment\_1 (“Attachment 1 to KPSC 2-7”).

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.

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

#### 1. **Supplemental Attachment 2 to KPSC 1-4.**

Supplemental Attachment 2 to KPSC 1-4 is being provided as a supplemental response to KPSC 1-4 in response to Commission Staff's request for additional information in KPSC 2-4(d) for updated status information on the bids. Supplemental Attachment 2 to KPSC 1-4 thus contains all of the information originally contained in the original spreadsheet filed as Confidential Attachment 2 to KPSC 1-4, plus updated status information on the bids. Therefore, the Company requests confidential treatment of the highlighted information in Supplemental Attachment 2 to KPSC 1-4 for the same reasons detailed in the Company's motion for confidential treatment of the original spreadsheet (Confidential Attachment 2 to KPSC 1-4) filed herein on April 14, 2022.

As stated in the Company's April 14, 2022 motion for confidential treatment, this attachment includes information, including key pricing and business terms, provided to the

Company by non-selected<sup>1</sup> third parties in response to written solicitations. The information also provides insight into the manner by which Kentucky Power evaluates bids in response to coal-supply solicitations.

Additionally, the information contained in the attachment was designated as confidential by the bidders responding to the solicitations. Disclosure of this information to the Commission is not prohibited, but the protections afforded by confidential treatment are required. Failure to maintain this information as confidential may have a chilling effect on the willingness of future bidders to submit responses to Kentucky Power coal-supply solicitations.

The confidential information identified in Supplemental Attachment 2 to KPSC 1-4 should be kept confidential for five years. After five years, changes in the commodities market will mean that the chilling effect of the disclosure of the information will have passed. Prior disclosure will adversely affect the Company's ability to obtain competitive bids in future coal-supply solicitations to the detriment of the Company and its customers.

The Commission granted confidential treatment to similar information in its January 7, 2020 order in Case No. 2019-00002<sup>2</sup> and its March 30, 2020 order in Case No. 2019-00226.<sup>3</sup>

## **2. Attachment 1 to KPSC 2-7.**

Attachment 1 to KPSC 2-7 provides, on an hourly basis, the unit commitment and its associated economic minimum output of the Mitchell Plant, which competitors in the PJM energy market could use to enhance their own market offers in such a way that it could displace Kentucky Power's generation. This data can be used by any generation provider in PJM. PJM

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<sup>1</sup> The Company is not seeking confidential treatment for the selected offer.

<sup>2</sup> Order, *In the Matter of: 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. January 7, 2020).

<sup>3</sup> Order, *In the Matter of: Electronic Examination Of The Application Of The Fuel Adjustment Clause Of Kentucky Power Company From November 1, 2018 Through April 30, 2019*, Case No. 2019-00226 (Ky. P.S.C. March 30, 2020).

does not make this information public and only makes it available to the individual sellers who offered and successfully sold their generation in the Day Ahead Market. Moreover, this data can be further enhanced when combined with the outage information provided by the Company in response to Staff's First Request, Item 15. This could allow outside parties to see how Kentucky Power's units come back online after an extended outage. In addition, the Mitchell generating units also serve affiliate company Wheeling Power Company which expands the potential harm to that utility.

Neither the Company nor its competitors publicly release this information. The Company estimates that after two years the factors that drive both the economics of the Mitchell generating units, the Company's hourly load profile, and the market (transmission, congestion, weather, loads in PJM, and PJM load zones) will render the information provided in the attachment of limited competitive value. Therefore, Kentucky Power requests the identified information be kept confidential for a period of two years.

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 contained in Confidential Supplemental Attachment 2 to KPSC 1-4 and Attachment 1 to KPSC 2-7 is highly confidential and competitively sensitive. 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 in Supplemental Attachment 2 to KPSC 1-4 for a period of five years;
2. According confidential status to and withholding from public inspection the identified information in Attachment 1 to KPSC 2-7 for a period of two years; and
3. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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