

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)	

Motion of Kentucky Power Company for Confidential Treatment

Kentucky Power Company (“Kentucky Power” or “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 the Attachment 1 to its response to Kentucky Industrial Utility Customers, Inc.’s Post Hearing Data Request 1 (“KIUC PHDR 1 Attachment 1”). Specifically, Kentucky Power seeks confidential treatment of the information provided by a bidder in response to the January 8, 2014 request for proposals for the construction, operation, and maintenance of a natural gas pipeline lateral to provide natural gas to Big Sandy Unit 1 (“Lateral RFP”) issued by American Electric Power Service Corporation (“AEPSC”) on behalf of Kentucky Power.

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of the KIUC PHDR 1 Attachment 1 containing confidential information with the confidential portions highlighted in yellow. Kentucky Power is also filing redacted versions of the KIUC PHDR 1 Attachment 1. Kentucky Power will notify the Commission when it determines the information for which confidential treatment is sought is no longer confidential.

A. The Request And The Statutory Standard.

KRS 61.878(1)(c)(1) excludes from the Open Records Act:

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 KIUC PHDR 1 Attachment 1.

KIUC PHDR 1 Attachment 1 includes information, including key pricing and business terms, provided to the Company by a third party pursuant to a confidentiality agreement and in response to Kentucky Power's Lateral RFP.

KIUC PHDR 1 Attachment 1 is a portion of Kentucky Power Company's confidential attachments included in the Company's response to Staff's Post Hearing Data Request 3 in Case No. 2013-00430.¹ The Commission granted confidential treatment for a period of 15 years to the attachments to the Company's response to Staff's Post Hearing Data Request 3, including those portions of the pages comprising KIUC PHDR 1 Attachment 1, by Order dated October 20, 2015 in Case No. 2013-00430.² That Order remains in effect and the information remains confidential.

Further, failure to maintain this information as confidential could have a chilling effect on the willingness of future bidders to submit responses to Kentucky Power and AEPSC RFPs. The

¹ *In The Matter Of: The Application Of Kentucky Power Company For: (1) A Certificate Of Public Convenience And Necessity Authorizing The Company To Convert Big Sandy Unit 1 To A Natural Gas-Fired Unit; And (2) For All Other Required Approvals And Relief*, Case No. 2013-00430.

² *Order, In The Matter Of: The Application Of Kentucky Power Company For: (1) A Certificate Of Public Convenience And Necessity Authorizing The Company To Convert Big Sandy Unit 1 To A Natural Gas-Fired Unit; And (2) For All Other Required Approvals And Relief*, Case No. 2013-00430 at 2 (Ky. P.S.C. October 20, 2015).

Commission accorded confidential treatment to similar information RFP-derived information in Case No. 2012-00578.³

Finally, the information contained in the KIUC PHDR 1 Attachment 1 was designated as confidential by the bidders responding to the Lateral RFP. Disclosure of this information to the Commission is not prohibited, but the protections afforded by confidential treatment are required.

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 KIUC PHDR 1 Attachment 1 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 AEPSC). 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. In addition, Kentucky Power and AEPSC have further limited the availability of the information to ensure the integrity of the RFP process.

The confidential information should be kept confidential for the balance of the 15-year period protected under the Commission's October 20, 2015 Order agreement. That period expires June 13, 2029. After this time period, the chilling effect of the disclosure of the

³ Order, *In the Matter of: The Application of Kentucky Power Company For: (1) A Certificate of Public Convenience And Necessity Authorizing The Transfer To the Company Of A Fifty Percent Undivided Interest In The Mitchell Generating Station And Associated Assets; (2) Approval Of The Assumption By Kentucky Power Company Of Certain Liabilities In Connection With The Transfer Of The Mitchell Generating Station; (3) Declaratory*

information will have passed. Prior disclosure will adversely affect the Company's ability to negotiate future purchased power agreements.

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 at 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; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



Mark R. Overstreet
Katie M. Glass
STITES & HARBISON PLLC
421 West Main Street
P. O. Box 634
Frankfort, Kentucky 40602-0634
Telephone: (502) 223-3477
Facsimile: (502) 779-8349
moverstreet@stites.com
kglass@stites.com

COUNSEL FOR KENTUCKY POWER
COMPANY

Rulings; (4) Deferral of Costs Incurred In Connection With The Company's Efforts To Meet Federal Clean Air Act And Related Requirements; And (5) For All Other Required Approvals And Relief (Ky. P.S.C. November 26, 2013).