

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

In the Matter of:

ELECTRONIC INVESTIGATION OF THE)	CASE NOS.
PROPOSED POLE ATTACHMENT TARIFFS OF)	2022-00064 and
INVESTOR OWNED ELECTRIC UTILITIES)	2022-00105

**KENTUCKY POWER COMPANY'S
MOTION FOR CONFIDENTIAL TREATMENT**

Comes now, Kentucky Power Company (“KPC”) by and through counsel and hereby moves this Public Service Commission of Kentucky (the "Commission"), pursuant to 807 KAR 5:001, Section 13 for an Order granting confidential treatment to the identified Confidential Information and documents filed in connection to Case Nos. 2022-00064 and 2022-00105.

Specifically, KPC is seeking confidential treatment for the proprietary information identified as “Confidential Information” in Paragraph 5 of the Affidavit of Marc A. Feeney (“Feeney Affidavit”) attached hereto and incorporated herein by reference.

The Joint Use Agreements, in part, include the Confidential Information which is confidential pricing and other contract terms that is non-public and competitively sensitive information.

Pursuant to 807 KAR 5:001, Section 13, KPC is filing under seal those portions of the Joint Use Agreements containing Confidential Information with the protected portions highlighted in “yellow” or otherwise indicated as being confidential. KPC is also filing a version into the public record with the Confidential Information redacted. KPC agrees to notify this Commission when it determines the Confidential Information is no longer proprietary or competitively sensitive information not to exceed ten (10) years.

A. The Statutory Standard.

KPC does not object to filing the Confidential Information, but requests that the identified portions of the responses be excluded from the public record and public disclosure for the reasons set forth herein.

KRS 61.878(1)(c)(1) excludes from the Open Records Act “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 Confidential Information for which KPC is seeking protection.

KPC competitively negotiates contract terms and pricing with the Incumbent Local Exchange Carriers (“ILEC”). To the extent the material terms including, but not limited to, the fees, rates, and pricing negotiated by and among KPC and the ILEC are disclosed to the public, that information could enable a supplier or provider to submit a less competitive offer in response to a future request for proposals that it otherwise would submit. If the offers submitted to provide such supplies or services are less competitive, KPC and its customers will be harmed through higher costs than would otherwise be incurred.

The Confidential Information contained in the Joint Use Agreements is not otherwise made public, and same cannot be ascertained through any amount of legitimate research.

KPC seeks protection of the Confidential Information for a period not to exceed ten (10) years, by such time the information should be sufficiently old so as to no longer be of competitive value or a shorter period should there no longer need for the Confidential Information to be protected.

B. The Identified Information is Generally Recognized As Confidential and Not Generally Known or Readily Ascertainable by Third Parties through Proper Means.

The Confidential Information in the Joint Use Agreements by definition within the KPC system is designated as confidential and competitively sensitive. The Confidential Information is not available or ascertainable by other parties through normal or proper means. No reasonable amount of independent research could yield this information to other parties.

Dissemination of the Confidential Information is restricted by KPC, including its parent entity and its affiliates. KPC and its parent company and affiliates take all reasonable measures to prevent its disclosure to the public as well as to persons within KPC who do not have a recognized need for the Confidential Information. The Confidential Information is not disclosed to persons outside KPC other than subject to a confidentiality agreement or other protection from disclosure.

C. The Identified Information Is Required To Be Disclosed To An Agency.

The Commission's Order directs the disclosure of the Confidential Information to the Commission. The Commission is a "public agency" within the definition set forth in KRS 61.870(1). The filing of the Confidential Information in conformity with the Commission's Order should be subject to adequate protection and a Commission imposed confidentiality order and any disclosure to a third party should be subject to 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 information designated by KPC as Confidential Information; and
2. Granting Kentucky Power Company all other relief to which it may appear entitled.

Respectfully submitted,

/s/Robert J. Patton
Hon. Robert J. Patton
Counsel for Kentucky Power Company

AFFIDAVIT OF MARC A. FEENEY

Marc A. Feeney, first being duly sworn, deposes and states:

1. I am employed by American Electric Power Service Corporation (“AEPSC”). AEPSC is a wholly-owned subsidiary of American Electric Power Company, Inc. (AEP) and is an affiliate of Kentucky Power Company (the “Companies”). I am responsible for managing all 3rd party attaching entities contracts for AEP as well as overseeing the annual rental invoicing to all 3rd party attaching parties.

2. I am of the age of majority and competent to make this Affidavit. The statements in this Affidavit are based on my personal knowledge or knowledge gained through my investigation with other AEPSC and Kentucky Power employees of the matters set forth in this Affidavit.

3. Kentucky Power is requesting that certain information within its Joint Use Agreements receive confidential treatment. This information is commercially sensitive information that I understand is exempted from public disclosure pursuant to KRS 61.878(1)(c)(1), which I understand protects “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.

4. The Confidential Information contained in the Joint Use Agreements is the result Kentucky Power competitive negotiation of contract terms and pricing with the Incumbent Local Exchange Carriers (“ILEC”). To the extent it is known what Kentucky Power and ILEC have agreed upon as to terms and pricing, that knowledge could enable a supplier to make a less competitive offer in response to a future request for proposals that it otherwise would. If offers are less competitive than they otherwise would be, Kentucky Power and its customers will be

harmful through higher costs than would otherwise be incurred.

5. The terms and pricing contained in the Joint Use Agreements are not otherwise made public, and they could not be ascertained through any amount of legitimate research.

6. The confidential information in the Joint Use Agreements is not available or ascertainable by other parties through normal or proper means. No reasonable amount of independent research could yield this information to other parties.

7. The Confidential Information has been the subject of reasonable efforts to maintain its secrecy. 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, AEPSC, and their affiliates take all reasonable measures to prevent its disclosure to the public as well as to persons within the Company and its affiliates who do not have a need for the information. The information is not disclosed to persons outside Kentucky Power, AEPSC, or its affiliates other than subject to confidentiality obligations.

Further the Affiant sayeth naught

