

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 November 1, 2021 Through April 30,)	Case No. 2022-00263
2022)	

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:

- (a) the identified portions of KPCO_R_KPSC_1_4_Confidential_Attachment2; and
- (b) the four confidential attachments to the Company's response to KPSC 1-31 in their entirety.

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of KPCO_R_KPSC_1_4_Confidential_Attachment2, KPCO_R_KPSC_1_31_Confidential_Attachment1, KPCO_R_KPSC_1_31_Confidential_Attachment2, KPCO_R_KPSC_1_31_Confidential_Attachment3, and KPCO_R_KPSC_1_31_Confidential_Attachment4 containing confidential information with the confidential portions highlighted in yellow. Kentucky Power also is filing redacted versions of the affected document. Kentucky Power will notify the Commission when it determines the information for which confidential treatment is sought is no longer confidential.

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 requests that the identified portions of the responses be excluded from the public record and public disclosure.

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 the information described below for which Kentucky Power is seeking confidential treatment.

1. KPCO_R_KPSC_1_4_Confidential_Attachment2.

Kentucky Power seeks confidential treatment for the identified portions of KPCO_R_KPSC_1_4_Confidential_Attachment2. This attachment includes information, including key pricing and business terms, provided to the Company by non-selected¹ 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.

¹ The Company is not seeking confidential treatment for the information in green highlight within the attachment, which represents the published Argus market pricing at the time the RFP was issued for the stated specification of coal, as this information is not considered confidential.

The confidential information identified in KPCO_R_KPSC_1_4_Confidential_Attachment2 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. 2019-00002,² and its March 30, 2020 order in Case No. 2019-00226.³ The Company requested, but has not yet been granted, confidential treatment of similar information by motions filed on April 14, 2022 and May 18, 2022 in Case No. 2022-00036.⁴

2. KPCO_R_KPSC_1_31_Confidential_Attachment1;
KPCO_R_KPSC_1_31_Confidential_Attachment2;
KPCO_R_KPSC_1_31_Confidential_Attachment3; and
KPCO_R_KPSC_1_31_Confidential_Attachment4.

The four attachments provide, on a daily basis, the market offers of energy from generating units that supply Kentucky Power's energy from its Mitchell units and hourly offers for its Big Sandy unit. The data also include the hourly commitment status of the two Mitchell units and Big Sandy Unit 1. It reflects the results of internal software along with other proprietary information such as incremental cost data and heat rate curves for individual generating units. The Company's competitors do not release this information at the level of

² 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).

³ 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).

⁴ *In the Matter of: Electronic Examination Of The Application Of The Fuel Adjustment Clause Of Kentucky Power Company From May 1, 2021 Through October 31, 2021*, Case No. 2022-00036.

detail provided; instead they provide only on a monthly or annual basis without the individual generating unit detail.

The data could be used by competitors in the PJM energy market to shape and enhance their market offers in such a way as to displace the Company's generation.

In addition, the two Mitchell generating units also serve an affiliate, Wheeling Power Company, that is not a party to this proceeding.

The information for which confidential treatment is being sought should be withheld from public disclosure for a period of four years. The generating resource retirement in PJM, along with new resources coming online, is expected to strip the information for which confidential treatment is requested on any competitive value.

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 required to be disclosed by Kentucky Power in the information for which confidential treatment is sought 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.

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 KPCO_R_KPSC_1_4_Confidential_Attachment2 confidential status and withholding KPCO_R_KPSC_1_4_Confidential_Attachment2 from public inspection for a period of five years;
2. According KPCO_R_KPSC_1_31_Confidential_Attachment1;
KPCO_R_KPSC_1_31_Confidential_Attachment2;
KPCO_R_KPSC_1_31_Confidential_Attachment3; and
KPCO_R_KPSC_1_31_Confidential_Attachment4 confidential status and withholding the attachments from public inspection for a period of four years; and
3. 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
Facsimile: (502) 779-8349
kglass@stites.com

COUNSEL FOR KENTUCKY POWER
COMPANY