

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

In the Matter of:

|  |   |                     |
|--|---|---------------------|
| Electronic Tariff Filing Of Kentucky Power       | ) |                     |
| Company For Approval Of A Special Contract Under | ) |                     |
| Its Economic Development Rider And Demand        | ) | Case No. 2022-00424 |
| Response Service Tariffs With Cyber Innovation   | ) |                     |
| Group, LLC                                       | ) |                     |

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

Kentucky Power Company (“Kentucky Power” or the “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 following:

- a) the identified portions of KPCO\_R\_KPSC\_PHDR\_9\_Attachment1 (Attachment 1 to KPSC PHDR 9);
- b) the identified portions of KPCO\_R\_KPSC\_PHDR\_11\_Attachment1 (Attachment 1 to KPSC PHDR 11);
- c) the entirety of KPCO\_R\_JI\_PHDR\_1\_Attachment1 (Attachment 1 to JI PHDR 1); and
- d) the entirety of KPCO\_R\_JI\_PHDR\_2\_Attachment1 (Attachment 1 to JI PHDR 2).

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. **Attachment 1 to KPSC PHDR 9 and Attachment 1 to KPSC PHDR 11.**

Attachment 1 to KPSC PHDR 9 and Attachment 1 to KPSC PHDR 11 contain the supporting calculations to Errata Attachment 3 to the Company's initial contract filing (marginal cost study), which also include the estimated expected revenues from Cyber Innovation Group, LLC ("Cyber Innovation") over the contract term. This information was previously provided confidentially as Attachment 1 to KPSC 1-1. The Commission granted confidential treatment to this information contained in Attachment 1 to KPSC 1-1 by its Order in this proceeding dated March 7, 2023. Kentucky Power now requests confidential treatment for that same information.

Cyber Innovation operates in a highly competitive industry in which cost information is highly protected for competitive advantage. The cryptocurrency mining and data services industry is driven by access to power with the cost of electric power accounting for over 90

percent of the operational costs of providing such services.<sup>1</sup> Consequently, Cyber Innovation seeks to maintain confidentiality regarding the cost of power it obtains from Kentucky Power under the proposed contract. Similar to other industrial customers (steel, aluminum, pulp and paper), Cyber Innovation needs to maintain confidentiality regarding the cost of the commodities and services it competes to sell. Cyber Innovation will suffer injury by any public release of this information because its competitors will gain access to the most sensitive information regarding its cost of operations. Publication of this confidential information also would cause Kentucky Power competitive harm because such publication may chill or impede the Company's ability to enter into contracts for service with prospective customers if customers know that information regarding their cost to operate could be made public.

The Company requests that the identified information in Attachment 1 to KPSC PHDR 9 and Attachment 1 to KPSC PHDR 11 be kept confidential for the entire term of the Special Contract, including any extensions of the contract term. After such time there will no longer be any competitive advantage to be gained from the information.

## **2. Attachment 1 to JI PHDR 1.**

Attachment 1 to JI PHDR 1 contains the load and load factor for the Rockhouse Facility for each month from January 2023 to the present. The attachments therefore contains competitive market information related to customer loads and company demand. This information can be used to determine market pricing, as competitors of Kentucky Power can use this information to alter their prices based on load data.

Public disclosure of this information could adversely affect Kentucky Power and its customers by providing data that could provide a competitive advantage to Kentucky Power's

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<sup>1</sup> See <https://www.reuters.com/article/us-markets-bitcoin-mining-idUSKCN0ZO2CW> (last accessed August 4, 2023).

direct competitors thereby affecting Kentucky Power's ability to minimize costs for its rate paying customers. The Commission previously granted confidential treatment to this kind of information by its Order in this proceeding dated March 7, 2023.

The confidential information identified in Attachment 1 to JI PHDR 1 should be kept confidential for a period of five years. After such time there will no longer be any competitive advantage to be gained from the information.

**3. Attachment 1 to JI PHDR 2.**

Attachment 1 to JI PHDR 2 is comprised of a copy of the bilateral capacity contract between Kentucky Power and a third party seller for PJM delivery years 2024/25 and 2025/26. Although the Company has made public the cost per MW of capacity to be purchased during the 2024/25 and 2025/26 PJM delivery years, this contract document and all of its other terms are confidential. The contract is the result of contract negotiations conducted under obligation of confidentiality. The seller is the owner of a competitive generation resource within PJM, and maintains, as a matter of course, all of its energy contracts as confidential. Kentucky Power also maintains its energy agreements as confidential, which is customary for the power industry. The contract represents the byproduct of Kentucky Power's lengthy negotiations and specifically tailored provisions in this agreement that are unique to this particular generation resource and Kentucky's capacity plan. Maintaining the confidentiality of this information provides Kentucky Power with more flexibility in subsequent RFPs, related to the terms and conditions appropriate for a given product and the credit requirements associated therewith. For these reasons, the public disclosure of this contract would cause competitive harm to Kentucky Power and may chill or impede the Company's ability to enter into similar contracts in the future.

The information contained in the contract specific to the 2024/25 PJM delivery year should be kept confidential until the end of that delivery year, or until June 1, 2025. The

information contained in the contract specific to the 2025/26 PJM delivery year and all other remaining information in the contract should be kept confidential until the end of that delivery year, or until June 1, 2026. After that time, the information will become publicly available or otherwise discernible and the need for confidential protection by this Commission will no longer exist.

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 the attachments detailed herein 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 Attachment 1 to KPSC PHDR 9 and Attachment 1 to KPSC PHDR 11 for the entire term of the Special Contract, including any extensions of the contract term;
2. According confidential status to and withholding from public inspection the identified information in Attachment 1 to JI PHDR 1 for a period of five years;
3. According confidential status to and withholding from public inspection the identified information in Attachment 1 to JI 1-2 specific to the 2024/25 PJM delivery year until the end of that delivery year, or until June 1, 2025; and the identified information in Attachment 1 to JI 1-2 specific to the 2025/26 PJM delivery year and all other remaining information in the contract until the end of that delivery year, or until June 1, 2026; and
4. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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