

**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, 2020 Through October	)	Case No. 2023-00008
31, 2022	)	

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

Kentucky Power Company (“Kentucky Power” or “Company”) moves the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001, Section 13(2), and KRS 61.878(1)(c), for an Order granting confidential treatment to the identified portions of the following attachments to its data request responses:

- (1) The entirety of Attachment 1 to the Company’s response to Attorney General and Kentucky Industrial Utility Customers, Inc.’s (“AG-KIUC”) Data Request 2-2 (“AG-KIUC 2-2”); and
- (2) The entirety of Attachments 1 through 4 to the Company’s response to AG-KIUC’s Data Request 2-4 (“AG-KIUC 2-4”).

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing the confidential documents 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.

This exception applies to the following information for which Kentucky Power is seeking confidential treatment:

#### **1. Attachment 1 to AG-KIUC 2-2.**

Kentucky Power seeks confidential treatment for the entirety of Attachment 1 to AG-KIUC 2-2. The attachments are comprised of proprietary strategic planning documents that are compiled each month and contain information on the operations of all coal units owned by the AEP system affiliate companies that sell energy into the PJM energy markets. More specifically with respect to Kentucky Power, the attachments contain non-public information not only concerning Kentucky Power's operations and generating units, but also non-public information regarding Kentucky Power's potential energy production over time. If competitors or counterparties had access to this information, it could lead to Kentucky Power suffering competitive injury in contract negotiations for energy, coal, and related commodities. Furthermore, the attachments provide insight into Kentucky Power's energy

market strategies along with those of its affiliates, which could provide a competitive advantage to market competitors. This, in turn, could increase Kentucky Power's cost of service.

The confidential information identified in Attachment 1 to AG-KIUC 2-2 should be kept confidential through December 31, 2028. After such time, there no longer will be risk of competitive injury.

## **2. Attachments 1 through 4 to AG-KIUC 2-4 .**

Kentucky Power seeks confidential treatment for the entirety of Attachments 1 through 4 to AG-KIUC 2-4. The four attachments to AG-KIUC 2-4 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 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 after that time. The Commission has granted confidential treatment to similar information in the past.<sup>1</sup>

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 confidential attachments identified above 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.

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

The identified information is by the terms of the Commission’s regulations 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.

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<sup>1</sup> Order, *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, 2022*, Case No. 2022-00263 (Ky. P.S.C. February 17, 2023).

WHEREFORE, Kentucky Power Company respectfully requests the Commission to enter an Order:

1. According confidential status to and withholding Attachment 1 to AG-KIUC 2-2 from public inspection through December 31, 2028;
2. According confidential status to and withholding Attachments 1 through 4 to AG-KIUC 2-4 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,



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