

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

In the Matter of:

Electronic 2022 Integrated Resource Planning Report )	Case No. 2023-00092
Of Kentucky Power Company )	

**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)(a), (c), (k), and (m) for an Order granting confidential treatment to the identified portions of the following attachments to its data request responses:

- (1) Attachment 6 to its response to Commission Staff Data Request 1-8 (“KPSC 1-8”);
- (2) Attachment 7 to its response to KPSC 1-8;
- (3) Attachment 10 to its response to KPSC 1-8;
- (4) Attachment 1 to its response to Commission Staff Data Request 1-19 (“KPSC 1-19”);
- (5) Attachment 1 to its response to Commission Staff Data Request 1-20 (“KPSC 1-20”);
- (6) Attachment 1 to its response to Attorney General and Kentucky Industrial Utility Customers, Inc.’s (“AG-KIUC”) Data Request 1-33 (“AG-KIUC 1-33”);
- (7) Attachment 1 to its response to Joint Intervenors, Mountain Association, Appalachian Citizens Law Center, Kentuckians for the Commonwealth, and Kentucky Solar Energy Society (“Joint Intervenors”) Data Request 1-13 (“Joint Intervenors 1-13”);
- (8) Attachment 1 to its response to Joint Intervenors Data Request 1-18 (“Joint Intervenors 1-18”);
- (9) Attachment 2 to its response to Joint Intervenors 1-18;
- (10) Attachment 1 to its response to Joint Intervenors Data Request 1-19 (“Joint Intervenors 1-19”);

- (11) Attachment 1 to its response to Joint Intervenors Data Request 1-40 (“Joint Intervenors 1-40”); and
- (12) Attachment 1 to its response to Joint Intervenors Data Request 1-66 (“Joint Intervenors 1-66”).

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.

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

### **1. Projected unit availability, operation, and cost information**

- A. Attachment 6 to KPSC 1-8;  
Attachment 7 to KPSC 1-8;  
Attachment 10 to KPSC 1-8;  
Attachment 1 to KPSC 1-19;

Attachment 1 to KPSC 1-20; and  
Attachment 1 to Joint Intervenors 1-66.

These attachments contain confidential information regarding the Company's projected generating unit availability, including projected forced outage and maintenance outage schedules; projected unit-specific operation data, including capacity factors, availability factors, and heat rates; and projected unit-specific cost data, including fuel (coal) costs, non-fuel O&M costs, variable production costs, an emissions costs.

The rise of competitive markets such as PJM has placed a premium on generating unit data. This data could be used by competitors in the PJM energy market to enhance their market offers in such a way that it could displace the Company's generation. The detail of the information provides highly sensitive data about the unique operation, costs, and performance of the Company's generating units. If disclosed publicly, the Company's competitors would be able to use this information to gain a competitive advantage over the Company in its daily participation in the PJM energy and ancillary service markets, as well as other electricity market activities. The Company's unit-specific performance data is not generally known or readily ascertainable by other parties through normal or proper means. No reasonable amount of legitimate independent research could enable other parties to determine it.

Public disclosure of information about unit availability could adversely affect Kentucky Power's customers by providing data that could provide a competitive advantage to Kentucky Power's direct competitors thereby affecting Kentucky Power's ability to minimize costs for its rate paying customers. Unit availability information is especially useful for competition as savvy marketers can estimate Kentucky Power's generation position and raise generation offers if the marketers believe Kentucky Power will be energy short, resulting in the Company paying higher prices to procure energy to serve its customers. This type of data is highly valued by competing

energy marketers and traders who speculate in forward energy transactions. Using forecasted unit availability data, other parties could improve their forecast accuracy of future Kentucky Power operations and utilize the resulting intelligence to influence negatively the Company's costs of providing electricity to its customers. Such actions would ultimately raise the cost to Kentucky Power's customers.

Additionally, Kentucky Power competitively bids coal contracts as needed, and to the extent a supplier knows what Kentucky Power's coal price forecast is, that knowledge could enable a supplier to make a less competitive coal 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 harmed through higher costs than would otherwise be incurred.

Finally, Kentucky Power derives independent economic value from the subject information not being generally known to, and not being readily ascertainable by other persons who can obtain economic value from its disclosure or use. Accordingly, Kentucky Power would be placed at a competitive disadvantage vis-à-vis other electric utilities buying and selling in the wholesale market if required to disclose the information publicly.

The confidential information identified in Section 1 should be kept confidential for the forecast period, or through 2037. After such time, there will no longer be any competitive advantage to be gained from the information.

## **2. Customer-specific identifiers and usage information**

### **A. Attachment 1 to Joint Intervenors 1-19.**

This attachment contains confidential customer names or other identifiers, as well as confidential customer-specific usage information. The Company does not make public the names and other private information specific to the customer that is not the subject of a public record,

such as a special contract for electric service. The Company also does not release customer-specific usage information to the public, and most customers expect the Company to protect the confidentiality of this information. The requested customer-specific information could be used by competitors of the Company's customers to gain intelligence that is not otherwise known regarding production costs and the customer's cost of doing business, which will place the customers at a competitive disadvantage. 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 agreements for service with prospective customers if customers know that information regarding their private data and cost to operate could be made public. As a result of any disclosure of this information by the Company, and the competitive disadvantage coincident with such disclosure, similarly situated customers would be less likely to locate in the Company's service territory.

- B. Attachment 1 to Joint Intervenors 1-13;  
Attachment 1 to Joint Intervenors 1-18;  
Attachment 2 to Joint Intervenors 1-18;  
Attachment 1 to Joint Intervenors 1-40; and  
Attachment 1 to AG-KIUC 1-33.

These attachments contain customer-specific projected load information. This information constitutes confidential information regarding future customer operations that Kentucky Power obtains through communication with the customer(s). The information is used by the Company to better plan for resource needs. If this information were disclosed, Kentucky Power's customers would be reluctant to share such information in the future, which would harm Kentucky Power's ability to properly plan to meet customer load. This would lead to inefficient planning and more expensive service for all customers as a result.

In addition to the potential harm to Kentucky Power associated with disclosure of this information, these customers are in competitive industries, and must plan appropriately to continue providing services and attracting and retaining business in their respective markets, including competitors outside of Kentucky Power's service territory. If competitors were to know the future expansion/reduction plans of these customers, competitors could use that information (which is not otherwise publicly disclosed) to plan their own expansions/reductions in a way that would not be possible in the absence of such disclosure, or to otherwise unfairly compete with these customers.

The confidential information identified in Section 2 should be kept confidential for a period of 10 years. At such time there will no longer be any competitive advantage to be gained from the information.

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 response to Attachment 6 to KPSC 1-8; Attachment 7 to KPSC 1-8; Attachment 10 to KPSC 1-8; Attachment 1 to KPSC 1-19; Attachment 1 to KPSC 1-20; Attachment 1 to Joint Intervenors 1-66; Attachment 1 to Joint Intervenors 1-13; Attachment 1 to Joint Intervenors 1-18; Attachment 2 to Joint Intervenors 1-18; Attachment 1 to Joint Intervenors 1-19; Attachment 1 to Joint Intervenors 1-40; and Attachment 1 to AG-KIUC 1-33 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 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 information identified in Section 1 for the forecast period, or through 2037;
2. According confidential status to and withholding from public inspection the information identified in Section 2 for a period of 10 years; and
3. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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