

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

In the Matter of:

Electronic Application Of Kentucky Power Company)	
For (1) A General Adjustment Of Its Rates For)	
Electric Service; (2) Approval Of Tariffs And Riders;)	
(3) Approval Of Accounting Practices To Establish)	Case No. 2023-00159
Regulatory Assets And Liabilities; (4) A)	
Securitization Financing Order; And (5) All Other)	
Required Approvals And Relief)	

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

- (1) The entirety of Attachment 2 to its response to Commission Staff Data Request 2-14 (“KPSC 2-14”);
- (2) The identified portions of Attachments 1 and 2 to its response to Attorney General and Kentucky Industrial Utility Customers, Inc.’s (“AG-KIUC”) Data Request 1-34 (“AG-KIUC 1-34”);
- (3) The identified portions of Attachment 1 to its response to AG-KIUC’s Data Request 1-37 (“AG-KIUC 1-37”); and
- (4) The entirety of Attachment 1 to its response to Joint Intervenors’ Data Request 1-26 (“JI 1-26”).

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.

...

(k) All public records or information the disclosure of which is prohibited by federal law or regulation;

These exceptions apply to the following information for which Kentucky Power is seeking confidential treatment:

1. Attachment 2 to KPSC 2-14.

Attachment 2 to KPSC 2-14 contains confidential information including prospective customer names, projected load, or other identifiers for not-yet-public economic development projects that the Company is evaluating in its service territory over the next five years. The Company does not make public the names and other private information specific to current or prospective customers that is not the subject of a public record, including information of prospective customers evaluating whether to locate in the Company's service territory. The Company also does not release customer-specific projected load information to the public, and

most entities expect the Company to protect the confidentiality of this information. The requested customer-specific information could be used by competitors of the Company's prospective customers to gain intelligence that is not otherwise known regarding prospective customers' business operations, 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 business operations plans 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 prospective customers would be less likely to locate in the Company's service territory.

In addition to the potential harm to Kentucky Power associated with disclosure of this information, these prospective 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 business plans, including the potential expansion/reduction plans of these prospective customers, competitors could use that information (which is not otherwise publicly disclosed) to plan their own business operations in a way that would not be possible in the absence of such disclosure, or to otherwise unfairly compete with these prospective customers.

Finally, as indicated in Attachment 2 to KPSC 2-14, the Company is subject to non-disclosure agreements with some of the prospective customers. Failure to keep the identified information confidential could negatively impact the prospective customer's decision to locate in

the Company's service territory, could limit the Company's ability to ultimately secure these prospective customers to the Company's service territory, and could result in financial loss to the prospective customers, which they may seek to recover from the Company.

The information contained in Attachment 2 to KPSC 2-14 should be kept confidential through December 31, 2025. After such time, the Company anticipates that the projects will either have become public or the information otherwise will become stale.

2. Attachment 1 to AG-KIUC 1-37.

Attachments 1 and 2 to AG-KIUC 1-34 are comprised of AEP's 2023 and 2022 Incentive Compensation Plan, respectively.¹ Attachment 1 to AG-KIUC 1-37 is comprised of AEP's most recent Performance Share Award Agreement that describes performance share metrics. The identified portions of each of these attachments contain confidential non-public financial and other information that may be material to investors of which the Securities and Exchange Commission ("SEC") prohibits disclosure.

Among other requirements, such information is permitted to be disclosed only in certain company statements and SEC filings. Further, Kentucky Power is required to maintain the confidentiality of the information under SEC regulations until the information is included in publicly filed documents. Anyone who views this information and has investable assets may have the ability to profit from it at the expense of other investors by trading AEP stock or other securities with those who are not privy to this information. Thus, the public disclosure of such information could result in SEC fines and significant harm to AEP and/or Kentucky Power's reputation, stock price, and ability to raise capital in public markets at a reasonable cost. Review

¹ Attachments 1 and 2 to AG-KIUC 1-34 are also confidential for the reasons stated in the next section, Section A(2)(i).

of this information on a confidential basis also could subject the reviewer to confidentiality and insider information obligations and restrictions under SEC rules.²

The confidential information contained in Attachment 1 to AG-KIUC 1-37 should be kept confidential through March 31, 2024, after which time the information will be made publicly available in SEC filings. The confidential information contained in Attachments 1 and 2 to AG-KIUC 1-34 should be kept confidential for a longer period for the reasons stated in the next section.

(i) Attachments 1 and 2 to AG-KIUC 1-34.

The confidential information contained in Attachments 1 and 2 to AG-KIUC 1-34 should also be kept confidential because the public disclosure of this information is likely to result in competitive disadvantage through increased costs and a loss of negotiating ability for the Company. Public disclosure of this information would make it easier and less expensive for other employers to successfully compete with Kentucky Power and other AEP affiliates for exempt employees. Anyone who views this information would have the ability to more precisely craft competitive employment offers for the Company's and other AEP affiliates' current and prospective employees. This would increase the risk of a higher cost of service resulting from greater employee compensation demands and higher costs to recruit and retain employees. This also would increase employee attrition, the average time to fill vacation positions, hiring expense, and exempt labor costs.

The confidential information contained in Attachments 1 and 2 to AG-KIUC 1-34 should be kept confidential 10 years, because incentive targets are often consistent for jobs at a given

² 17 C.F.R. 240.10b-5.

grade level for many years and it would take approximately 10 years for the incentive targets, grade levels and/or job definitions to become too stale to be useful for competing employers.

3. Attachment 1 to JI 1-26.

Attachment 1 to JI 1-26 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 required to be disclosed by Kentucky Power pursuant to Commission regulations 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”). 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 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 as detailed in the table in **Exhibit 1** attached hereto; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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COMPANY

Response	Attachment name	Information for which confidential treatment is sought	Time period to be kept confidential
KPSC 2-14	KPCO_R_KPSC_2_14_ConfidentialAttachment2	Entire attachment	Through December 31, 2025
AG-KIUC 1-34	KPCO_R_AG-KIUC_1_34_ConfidentialAttachment1	Highlighted portions	10 years
AG-KIUC 1-34	KPCO_R_AG-KIUC_1_34_ConfidentialAttachment2	Highlighted portions	10 years
AG-KIUC 1-37	KPCO_R_AG-KIUC_1_37_ConfidentialAttachment1	Highlighted portions	Through March 31, 2024
JI 1-26	KPCO_R_JI_1_26_ConfidentialAttachment1	Entire attachment	See Motion at 6-7