

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

In the Matter of:

Electronic Application Of Kentucky Power Company	)	
For (1) Renewed Authority Under KRS 278.2207(2)	)	
And KRS 278.2219 To Enable The Company To Pay	)	
The Fees And Costs Imposed By The Grid Assurance	)	Case No. 2023-00305
LLC Subscription Agreement; And (2) The Grant Of	)	
All Other Required Approvals And Relief	)	

**MOTION OF KENTUCKY POWER COMPANY**  
**FOR CONFIDENTIAL TREATMENT**

Kentucky Power Company (“Kentucky Power” or the “Company”) respectfully moves the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001, Section 13(2), for an Order granting confidential treatment for the identified portions of Attachment 1 to the Company’s response to Commission Staff’s data request 1-11 (“KPSC 1-11”) in this case.

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of Attachment 1 to KPSC 1-11 for which confidential treatment is sought. The confidential portions (filed under seal) are highlighted in yellow. Kentucky Power also is electronically filing redacted versions of the attachment. Kentucky Power will notify the Commission when it determines the information for which confidential treatment is sought is no longer confidential.

Kentucky Power states as follows:

**I. Motion for Confidential Treatment**

A. The Requests and the Statutory Standard.

The identified portions are required to be excluded from the public record and public disclosure. KRS 61.878(1)(c)(1) excludes from public disclosure under the Open Records Act:

"[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly

disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

Further, KRS 61.878(1)(m)(1)(f) exempts from public inspection records that would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act, including:

Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

Finally, KRS 61.878(1)(k) exempts “all public records or information the disclosure of which is prohibited by federal law or regulation” from disclosure under the Open Records Act.

FERC Rule 18 C.F.R. § 388.113(c) defines Confidential Electrical Infrastructure Information (“CEII”) as:

specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

18 C.F.R. § 388.112 exempts CEII from mandatory disclosure under the Freedom of Information Act. Portions of Attachment 1 to KPSC 1-11 contain Critical Energy Infrastructure Information (“CEII”) exempted from public disclosure under federal law.

(a) **Attachment 1 to KPSC 1-11.**

Kentucky Power seeks confidential treatment for the identified portions of Attachment 1 to KPSC 1-11, which is comprised of the Grid Assurance, LLC form Amended and Restated Subscription Agreement and Multi-Subscriber Addendum (“Subscription Agreement”).

ii. CEII.

The designated confidential information in the Subscription Agreement is treated by the Federal Energy Regulatory Commission as CEII and is exempt from public disclosure in accordance with FERC rules. All of the information for which confidential treatment is requested constitutes CEII under the FERC rule.

The Subscription Agreement identifies the different classes of specific transmission equipment available to subscribers, the quantities of that specific transmission equipment nominated by Kentucky Power and other signatories and warehoused by Grid Assurance, as well as the class and contract allocated share of each subscriber for that equipment. The nomination quantifies the levels of equipment deemed critical to the operation of the electric transmission systems of Kentucky Power and other signatories in the event of a Qualifying Event. Information related to each subscriber’s class or contract allocated share could be used to reverse-engineer, or otherwise inform, the nominated quantities of transmission equipment for each subscriber, and this information likewise must be exempt from public disclosure for the same reasons.

The identified confidential information in the Subscription Agreement is information that could be useful to persons planning an attack on critical infrastructure. FERC Rule 18 C.F.R. § 388.113(c). The identified confidential information in the Subscription Agreement is exempt from mandatory disclosure pursuant to KRS 61.878(1)(k) because it is CEII as defined by FERC

Rule 18 C.F.R. § 388.113(c), and is prohibited by federal law or regulation from disclosure under the Kentucky Open Records Act.

For these same reasons, the identified information in Attachment 1 to KPSC 1-11 is exempt from public disclosure pursuant to KRS 61.878(1)(m)(1)(f) because disclosure of this information would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act.

In 2018, when the Commission initially evaluated Kentucky Power's Grid Assurance subscription application, the critical, long lead-time equipment had not yet been acquired nor stored by Grid Assurance LLC. Consequently, the nominated quantity numbers were theoretical estimates. Today, Grid Assurance LLC actually stores and maintains critical, long lead-time equipment (to which Kentucky Power subscribes), in undisclosed secured warehouses across the United States. For security purposes, it is imperative this information remain confidential and is not publicly disclosed.

Given the nature of the information at issue, Kentucky Power requests that the information for which confidential treatment is sought be withheld from public disclosure indefinitely. The Commission previously granted confidential treatment to similar information in the Company's application for authority to enter into the Grid Assurance Subscription Agreement in 2018.<sup>1</sup>

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<sup>1</sup> See Order, *In The Matter Of: Electronic Application Of Kentucky Power Company For 1) Authority Under KRS 278.2207(2) And KRS 278.2219 To The Extent Required To Enable The Company To Pay Fees And Costs Imposed By The Grid Assurance, LLC Subscription Agreement; 2) The Grant Of All Other Required Approvals And Relief*, Case No. 2018-00287 (Ky. P.S.C. October 16, 2018).

B. The Identified Information is Generally Recognized As Confidential and Public Disclosure Of It Will Threaten the Public Safety.

The identified information in Attachment 1 to KPSC 1-11 is highly confidential. Dissemination of the information for which confidential treatment is being requested is restricted by Grid Assurance, Kentucky Power, its parent, and its affiliates. Grid Assurance advises all subscribing, and potentially subscribing, transmission owners to protect such information from public dissemination. Grid Assurance, 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, with the exception of Grid Assurance. 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 confidential information is being disclosed to the Commission in connection with Kentucky Power's application for authority to renew the Subscription Agreement and related relief, and in response to the Commission's request for it. The information will permit the Commission to meaningfully evaluate Kentucky Power's requests for relief in this case. The Commission is a "public agency" as that term is defined at KRS 61.870(1).

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

1. According confidential status to and withholding from public inspection the identified portions of Attachment 1 to KPSC 1-11 in this case indefinitely; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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