

**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) Case No. 2024-00136
FROM NOVEMBER 1, 2022 THROUGH APRIL)
30, 2023)

**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 Attachment 2 and Attachment 4 to the Company’s response to Commission Staff’s Data Request 2-2 (“KPSC 2-2”) and the identified portions of Attachment 1 to the Company’s response to Commission Staff’s Data Request 2-7 (“KPSC 2-7”).

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing the entire document under seal. Kentucky Power is also filing a redacted version of the document. Kentucky Power will notify the Commission when it determines the information for which confidential treatment is sought is no longer confidential.

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

1. Attachment 2 and Attachment 4 to KPSC 2-2.

Attachment 2 and Attachment 4 to KPSC 2-2 contain confidential, unit-specific information relating to the operation of the Company's generating units, their costs, and the Company's strategy for bidding these units into the PJM market.

The rise of competitive markets such as PJM has placed a premium on generating unit data, including but not limited to, outage rates, energy output, fuel costs, and O&M costs. 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.

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 Attachment 2 and Attachment 4 to KPSC 2-2 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. The Commission has afforded confidential treatment to similar information in the past.¹

2. Attachment 1 to KPSC 2-7.

Attachment 1 to KPSC 2-7 includes customer name and account numbers for customers curtailed during Winter Storm Elliott.

Many of the Company's commercial and industrial customers operate in competitive national and/or global markets. Releasing the customers' identities and the nature of their curtailable loads could allow competitors to gain specific information regarding the customers' business operations. This information would not otherwise be known in the competitive marketplace, and the public disclosure could place Kentucky Power's commercial and industrial customers at a distinct competitive disadvantage. As a result of this competitive disadvantage, commercial and industrial customers may be less likely to locate in Kentucky Power's service territory, which will result in harm to Kentucky Power.

The confidential information identified in Attachment 1 to KPSC 2-7 should be kept confidential for a period of ten years. After such time, there will no longer be any competitive

¹ See, *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 Regulatory Assets and Liabilities; (4) Approval of a Certificate of Public Convenience and Necessity; and (5) All Other Required Approvals and Relief*, Case No. 2020-00174, (“2020 Rate Case”) Order at 3 (October 27, 2020).

advantage to be gained from the information. The Commission has afforded confidential treatment to similar information in the past.²

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 in Attachment 2 and Attachment 4 to KPSC 2-2 and the identified portions of Attachment 1 to KPSC 2-7 that is required to be disclosed by Kentucky Power under 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 Company, AEP, and its affiliates (and third-party vendors where applicable) take all reasonable measures to prevent its disclosure to the public as well as persons within the Company and third-party vendors 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 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.

² See, 2020 Rate Case, Order at 2 (October 27, 2020).

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

1. According confidential status to and withholding from public inspection the identified information in Attachment 2 and Attachment 4 to KPSC 2-2 for a period of five years;
2. According confidential status to and withholding from public inspection the identified information in Attachment 1 to KPSC 2-7 for a period of ten years;
3. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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