

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

In the Matter of:

Electronic Application Of Kentucky Power Company)	
For (1) An Order Approving The Terms And)	
Conditions Of The Renewable Energy Purchase)	
Agreement For Solar Energy Resources Between)	
Kentucky Power Company And Bright Mountain)	
Solar, LLC; (2) Authorization To Enter Into The)	Case No. 2024-00243
Agreement; (3) Recovery Of Costs Through Tariff)	
P.P.A.; (4) Approval Of Accounting Practices To)	
Establish A Regulatory Asset; 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) for an Order granting confidential treatment to the stenographic transcripts of the January 28, 2025 confidential sessions of the hearing in this matter.

The information for which Kentucky Power seeks confidential treatment is contained in confidential transcripts and includes testimony given by Company witnesses during confidential session of the hearing in this matter on January 28, 2025. The chart attached as **Exhibit 1** specifies the following information for each item contained in the confidential transcripts for which confidential treatment is sought:

- The date of the transcript containing the confidential testimony;
- The topic discussed;
- The witness testifying;
- The questioner and person requesting the confidential hearing session;
- The applicable section of KRS 61.878 under which confidential treatment is sought;

- The period for which confidential treatment is sought; and
- The date of any previous Commission order granting confidential protection for that information.

Rows 1, 2, 5, 6, 7, and 9 in Exhibit 1 pertain to testimony given by Company witnesses Wolfram and Yetzer on January 28, 2025, in response to cross-examination by AG-KIUC counsel Mr. Kurtz, Chair Hatton, Commission staff member Mr. van Zyl, and Commissioner Regan, as well as redirect examination by Kentucky Power counsel Mr. Gish and Ms. Glass. The cross- and redirect examination concern the analysis and results of Kentucky Power's All-Source RFP, as reflected by Company Confidential Exhibits ZMY-2 and ZMY-3.¹ **Row 9** in Exhibit 1 also specifically includes testimony given by Company witness Wolfram in response to cross-examination by Commission staff member Mr. van Zyl and redirect examination by Ms. Glass about Kentucky Power's future generation strategy and the evaluation and status of thermal RFP bids.

Exhibit ZMY-2 is an independent assessment of Kentucky Power's 2023 All Source RFP prepared by Charles River Associates which includes confidential responses to the 2023 All Source RFP and the Company's evaluation of the same. Exhibit ZMY-3 is also comprised of confidential responses to the Company's 2023 All Source RFP and the Company's evaluation of the same. The responses to the 2023 All Source RFP were provided to the Company on a confidential basis by the respondents pursuant to a non-disclosure agreement. The Company is continuing to evaluate responses to the 2023 All Source RFP and may enter into agreements in addition to the REPA that is the subject of this proceeding.

¹ Kentucky Power has previously filed a Motion for Confidential Treatment of these Exhibits, which the Commission has not yet ruled upon. *See* Kentucky Power's Motion for Confidential Treatment (filed July 31, 2024).

Public disclosure of information related to the 2023 All Source RFP, including the status of bids that remain open, could provide insight into the manner by which Kentucky Power evaluates bids in response to the 2023 All Source RFP, as well as the confidential preliminary terms of potential future agreements resulting from the RFP process. Such public disclosure could potentially impair the current evaluation process or future processes, thus harming Kentucky Power and its customers. Disclosure of this information also could result in potential bidders pulling their bids and dropping out from consideration, or otherwise frustrating or impairing the Company's ongoing evaluation. Failure to maintain this information as confidential may have a chilling effect on the willingness of future bidders to submit responses to Kentucky Power RFPs.

The Commission previously granted confidential treatment for this information in the Company's most recent base rate case, Case No. 2023-00159, when it granted confidential treatment for the portion of the hearing transcript in that case that discussed the responses to the 2023 All Source RFP.² The Commission also treated this information confidentially during the June 12, 2023 hearing in the Company's most recent Integrated Resource Plan proceeding, Case No. 2023-00092, when the Commission went into confidential session to discuss the Company's evaluation of responses to the 2023 All Source RFP.³

Rows 3, 4, 5, and 7 in Exhibit 1 pertain to testimony given by Company witness Yetzer on January 28, 2025, in response to cross-examination by AG-KIUC counsel Mr. Kurtz and Commission staff member Mr. van Zyl, as well as redirect examination by Kentucky Power

² See Order, *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) A Securitization Financing Order; And (5) All Other Required Approvals And Relief*, Case No. 2023-00159 (Ky. P.S.C. June 4, 2024)

³ See *In the Matter Of: Electronic 2022 Integrated Resource Planning Report Of Kentucky Power Company*, Case No. 2023-00092.

counsel Mr. Gish. The cross- and redirect examination concern the terms and provisions contained in Kentucky Power's Renewable Energy Purchase Agreement for the Bright Mountain facility, as reflected by Company Confidential Exhibits ZMY-4 and ZMY-5.⁴

Kentucky Power has sought confidential treatment of certain, non-price, negotiated terms of the REPA both in the REPA itself (Exhibit ZMY-4) and in the summary (Exhibit ZMY-5). Based on recent Commission precedent⁵ Kentucky Power did not seek confidential treatment of the Contract Rate; however, the Contract Rate is only a portion of the negotiated terms in the REPA. Other key commercial terms in the REPA, including provisions relating to performance guarantees, credit requirements, and liquidated damages, reflect the results of arm's length negotiations between the parties to the REPA.

Disclosure of this information would give insight, not publicly available, into contract terms and conditions that Kentucky Power would agree to and would place the Company at a commercial disadvantage in future, similar negotiations. Additionally, contract counterparties expect that the sort of information for which Kentucky Power seeks confidential treatment will be kept from public disclosure. A failure to keep this information confidential would create a chilling effect in the market, limiting the number of companies willing to respond to RFPs or negotiate with the Company, resulting in less competitive options for the Company and higher costs for customers. The Commission has recently granted indefinite confidential treatment of similar, non-price, negotiated commercial terms in agreements similar to the REPA.⁶

⁴ Kentucky Power has previously filed a Motion for Confidential Treatment of these Exhibits, which the Commission has not yet ruled upon. *See* Kentucky Power's Motion for Confidential Treatment (filed July 31, 2024).

⁵ *See In the Matter of: Electric Application of Big Rivers Electric Cooperation for Approval of Amendment to Power Purchase Agreement*, Case No. 2022-00296.

⁶ *See Order, In the Matter of: Electronic Application of Big Rivers Electric Cooperation for Approval of Amendment to Power Purchase Agreement*, Case No. 2022-00296 (Ky. P.S.C. Nov. 3, 2023).

Row 8 in Exhibit 1 pertains to testimony given by Company witness Coon on January 28, 2025, in response to cross-examination by AG-KIUC counsel Mr. Kurtz. The cross-examination concerns information from a report prepared by Evolution Markets, Inc. (“Evolution”) for known, settlement prices for Renewable Energy Certificates (“REC”), including PJM TRI Class I RECs, or information from which the information in the Evolution report could be easily derived, as reflected in KIUC’s Confidential Hearing Exhibits 1 and 2.⁷ The Evolution report is prepared by Evolution and is made available to Kentucky Power’s affiliate, American Electric Power Service Company (“AEPSC”), pursuant to a brokerage agreement between AEPSC and Evolution. This agreement prohibits AEPSC and its affiliates from copying, transferring, or disseminating the report unless authorized by Evolution. The report is the property of Evolution; it is not the property Kentucky Power or its affiliate, AEPSC. However, Kentucky Power has been authorized by Evolution to produce the portion of the report described above if granted confidential treatment. A breach of these agreements by the public disclosure of the information for which confidential treatment is requested could result in competitive commercial injury to Kentucky Power through AEPSC’s loss of the ability to obtain the information in future for use in managing its operations. The identified information belongs to Evolution and not Kentucky Power. Absent a waiver of confidential treatment by Evolution, the information should remain confidential indefinitely. The Commission previously granted confidential protection to similar subscription information indefinitely.⁸

⁷ Kentucky Power has previously filed a Motion for Confidential Treatment of these Exhibits, which the Commission has not yet ruled upon. *See* Kentucky Power’s Motion for Confidential Treatment (filed December 11, 2024).

⁸ *See* Order, *In The Matter Of: Electronic Joint Application Of American Electric Power Company, Inc., Kentucky Power Company And Liberty Utilities Co. For Approval Of The Transfer Of Ownership And Control Of Kentucky Power Company*, Case No. 2021-00481 (Ky. P.S.C. Mar. 16, 2022).

For the reasons stated herein, the confidential transcripts identified in this motion should be accorded confidential treatment for the periods indicated in Exhibit 1. Kentucky Power will notify the Commission if the Company determines prior to the end of the period for which confidential treatment is sought that the stenographic transcripts are no longer confidential.

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

1. According confidential status to the stenographic transcripts of the January 28, 2025 confidential sessions of the hearing in this matter for the periods indicated in Exhibit 1; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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Exhibit 1

Date of hearing transcript containing confidential testimony	Topic of confidential testimony	Company Witness testifying	Questioner/party requesting confidential hearing session	Applicable section(s) of KRS 61.878	Period for which confidential treatment is sought	Date of Commission Order previously granting confidential protection
1. 1-28-2025	Kentucky Power's All-Source RFP; Kentucky Power's Confidential Exhibits ZMY-2 and ZMY-3	Tanner S. Wolfram	Mr. Kurtz	KRS 61.878(1)(c)(1)	Indefinitely	N/A
2. 1-28-2025	Kentucky Power's All-Source RFP; Kentucky Power's Confidential Exhibits ZMY-2 and ZMY-3	Tanner S. Wolfram	Chair Hatton	KRS 61.878(1)(c)(1)	Indefinitely	N/A
3. 1-28-2025	Kentucky Power's Renewable Energy Purchase Agreement for the Bright Mountain facility; Kentucky Power's Confidential Exhibits ZMY-4 and ZMY-5	Zachary M. Yetzer	Mr. Gish	KRS 61.878(1)(c)(1)	Indefinitely	N/A
4. 1-28-2025	Kentucky Power's Renewable Energy Purchase Agreement for the Bright Mountain facility; Kentucky Power's Confidential Exhibits ZMY-4 and ZMY-5	Zachary M. Yetzer	Mr. Kurtz	KRS 61.878(1)(c)(1)	Indefinitely	N/A
5. 1-28-2025	Kentucky Power's All-Source RFP; Kentucky Power's Confidential Exhibits ZMY-2 and ZMY-3;	Zachary M. Yetzer	Mr. van Zyl	KRS 61.878(1)(c)(1)	Indefinitely	N/A

Date of hearing transcript containing confidential testimony	Topic of confidential testimony	Company Witness testifying	Questioner/party requesting confidential hearing session	Applicable section(s) of KRS 61.878	Period for which confidential treatment is sought	Date of Commission Order previously granting confidential protection
	Kentucky Power's Renewable Energy Purchase Agreement for the Bright Mountain facility; Kentucky Power's Confidential Exhibits ZMY-4 and ZMY-5					
6. 1-28-2025	Kentucky Power's All-Source RFP; Kentucky Power's Confidential Exhibits ZMY-2 and ZMY-3; Kentucky Power's Confidential Attachment 1 to AG-KIUC 1_11	Zachary M. Yetzer	Commissioner Regan	KRS 61.878(1)(c)(1)	Indefinitely	N/A
7. 1-28-2025	Kentucky Power's All-Source RFP; Kentucky Power's Confidential Exhibits ZMY-2 and ZMY-3; Kentucky Power's Renewable Energy Purchase Agreement for the Bright Mountain facility; Kentucky Power's Confidential Exhibits ZMY-4 and ZMY-5	Zachary M. Yetzer	Mr. Gish	KRS 61.878(1)(c)(1)	Indefinitely	N/A
8. 1-28-2025	KIUC's Confidential Hearing Exhibit 1; KIUC's Confidential Hearing Exhibit 2	Nicole M. Coon	Mr. Kurtz	KRS 61.878(1)(c)(1)	Indefinitely	N/A

Date of hearing transcript containing confidential testimony	Topic of confidential testimony	Company Witness testifying	Questioner/party requesting confidential hearing session	Applicable section(s) of KRS 61.878	Period for which confidential treatment is sought	Date of Commission Order previously granting confidential protection
9. 1-28-2025	Kentucky Power's All-Source RFP; Kentucky Power's Confidential Exhibits ZMY-2 and ZMY-3	Tanner S. Wolffram	Mr. van Zyl and Ms. Glass	KRS 61.878(1)(C)(1)	Indefinitely	N/A