

**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	)	Case No. 2024-00243
Solar, LLC; (2) Authorization To Enter Into The	)	
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)(a), (c), and (k) for an Order granting confidential treatment to the identified portions of Attachment 1 to the Company’s response to Commission Staff’s Post Hearing Data Request 1-1 (“PHDR 1-1”) (the “Confidential Information”). Attachment 1 includes two categories of Confidential Information:

- compensation information for named executives of American Electric Power Company (“AEP”) that has not yet been publicly disclosed in AEP’s proxy statements (“AEP Compensation Information”); and
- compensation information for the officers of Kentucky Power (“Kentucky Power Compensation Information”).

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing the entirety of the documents comprising the Confidential Information under seal. Kentucky Power is also filing

redacted version of the documents. 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:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

...

(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. **AEP Compensation Information.**

The AEP Compensation Information is included in Attachment 1 to PHDR 1-1 on the sheet labeled "2024" in the rows beneath the heading "American Electric Power Company Named Executive Officers". The AEP Compensation Information has not yet been provided in annual filings with the Securities and Exchange Commission ("SEC") of AEP. Therefore, the Company

is requesting confidential treatment for the AEP Compensation Information until such time as the information is made public in AEP's filings with the SEC.

The AEP Compensation Information also may contain certain assumptions regarding forward-looking earnings-related information and stock-based information, and, accordingly, Kentucky Power is required to maintain the confidentiality of the information under SEC regulations until the information is included in publicly filed documents. Review of this information on a confidential basis could subject the reviewer to confidentiality and insider information obligations and restrictions under SEC rules.<sup>1</sup>

The Commission has recently granted confidential treatment to similar information.<sup>2</sup>

## **2. Kentucky Power Compensation Information.**

The Kentucky Power Compensation Information is included in Attachment 1 to PHDR 1-1 on the sheets labeled with individual years in the rows beneath the heading "Kentucky Power Company Officers". The Kentucky Power Compensation Information includes personal compensation for the Company's officers that is kept confidential. This personal and confidential employee compensation information, if disclosed, would better enable competitors to attempt to recruit key Company personnel and would compromise the Company's position in negotiating employee compensation terms. This is especially true for high-level management and highly specialized personnel. This information is highly sensitive, even internally within the Company, and is only available on a need-to-know basis. Public disclosure of this information is likely to result in increased costs and a diminishing of negotiating strength for the Company. Disclosure

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<sup>1</sup> 17 C.F.R. 240.10b-5.

<sup>2</sup> 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. Oct. 2, 2023).

of this information also increases the risk of a higher cost of service resulting from greater employee compensation demands and higher costs to recruit and retain skilled employees and managers.

The Kentucky Power Compensation Information should remain confidential for five years. After five years, the labor market will have changed sufficiently and there will no longer be any competitive advantage to gain from the information. The Commission has recently granted confidential treatment to similar information.<sup>3</sup>

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 Confidential Information 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 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

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<sup>3</sup> *Id.*

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 respectfully requests the Commission to enter an Order:

1. According confidential status to and withholding from public inspection the AEP Compensation Information until such time as the information is made public in AEP's filings with the SEC;
2. According confidential status to and withholding from public inspection the Kentucky Power Compensation Information for a period of five years;
3. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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