

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

In the Matter of:

Electronic Application Of Kentucky Power Company	)	
For Approval Of (1) A Certificate Of Public	)	
Convenience And Necessity To Make The Capital	)	
Investments Necessary To Continue Taking Capacity	)	
And Energy From The Mitchell Generating Station	)	Case No. 2025-00175
After December 31, 2028, (2) An Amended	)	
Environmental Compliance Plan, (3) Revised	)	
Environmental Surcharge Tariff Sheets, And (4) All	)	
Other Required Approvals And Relief	)	

Kentucky Power Company's Motion For Confidential Treatment

Kentucky Power Company ("Kentucky Power" or the "Company") moves the Public Service Commission of Kentucky (the "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 the Company's following data responses:

- (1) Confidential Attachments 1, 3, 4, 5, 6, and 7 to its response to Attorney General Data Request 1-1 ("AG 1-1");
- (2) Confidential Attachment 1 to its response to Commission Staff Data Request 1-16 ("KPSC 1-16"); and
- (3) Confidential Attachment 1 to its response to Sierra Club Data Request 1-12 ("SC 1-12").

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

A. The Statutory Standard.

Kentucky Power does not object to filing the identified information for which it is seeking confidential treatment, but requests that the identified portions of these documents 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 exception applies to the analysis.

**1. Confidential Attachments 1, 3, 4, 5, 6, and 7 to AG 1-1.**

The Company's response to AG 1-1, Confidential Attachments 1, 3, 4, 5, 6, and 7, are comprised of confidential workpapers (the "Confidential Workpapers") that identify the results of a cost of service economic analysis prepared by Company Witness Vaughan to evaluate potential post-2031 environmental compliance options for the Mitchell Plant. The results of this evaluation include information regarding potential Mitchell Plant operations in each compliance alternative as well as the estimated costs to implement and revenue requirement impacts of each compliance alternative. The analysis was performed utilizing forecasts and other assumptions regarding market performance and costs in the future. The Company sought confidential treatment of the information in Company Witness Vaughan's Direct Testimony that the Confidential Workpapers support when it filed its Application.

The disclosure of the identified information in the Confidential Workpapers would unfairly prejudice Kentucky Power and its customers, by permitting an unfair commercial advantage to Kentucky Power's competitors and suppliers. Public disclosure of such project cost data and operating information could prove damaging to the Company in both current and future

competitive marketplaces, and would place Kentucky Power at a significant disadvantage in the marketplace. If Kentucky Power's costs and operating projections are publicly known, competitors and suppliers can formulate competitive bidding strategies that will hamper the Company's ability to compete against them, cause Kentucky Power's units to operate/sell less, and ultimately cost more to operate, thereby resulting in higher costs for the Company's customers. Moreover, disclosure of the estimated costs for each compliance alternative would create a "price floor" for contractors and equipment suppliers bidding in response to requests for proposals to implement a chosen alternative. This could make the implementation project more expensive to the detriment of Kentucky Power's customers.

For the reasons stated herein, the identified portions of the Confidential Attachments 1, 3, 4, 5, 6, and 7 to the AG 1-1 should be kept confidential indefinitely.

## **2. Confidential Attachment 1 to KPSC 1-16.**

Confidential Attachment 1 to KPSC 1-16 is comprised of information relating to the Company's evaluation of responses to the Company's September 22, 2023 All-Source RFP for generation resources.

Public disclosure of this information 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 an 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.<sup>1</sup> 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.<sup>2</sup> For the reasons stated herein, the identified portions of Attachment 1 to KPSC 1-16 should be kept confidential indefinitely.

### **3. Confidential Attachment 1 to SC 1-12.**

Attachment 1 to SC 1-12 contains forecasted average heat rates for the years 2025 through 2054, and variable operations and maintenance ("VOM") for those same years for the Mitchell Plant, which were used in Company Witness Vaughan's analysis described in his Direct Testimony. This kind of unit-specific operational data is confidential. The rise of competitive markets such as PJM has placed a premium on generating unit data, including but not limited to, outage rates, heat 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.

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<sup>1</sup> 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).

<sup>2</sup> See, *In the Matter Of: Electronic 2022 Integrated Resource Planning Report Of Kentucky Power Company*, Case No. 2023-00092 ("2022 IRP Case").

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. 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.

For reasons stated herein, Attachment 1 to SC 1-12 should be kept confidential for the forecast period, or through 2054. After such time, there will no longer be any competitive advantage to be gained from the information.

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 requested to be disclosed by Kentucky Power in response to AG 1-1, KPSC 1-16, and SC 1-12 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). The Company, AEP, and its affiliates 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 Orders 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 indefinitely the identified information contained in Confidential Attachments 1, 3, 4, 5, 6, and 7 to AG 1-1;
2. According confidential status to and withholding from public inspection indefinitely the identified information contained in Confidential Attachment 1 to KPSC 1-16;
3. According confidential status to and withholding from public inspection through 2054 the identified information contained in Confidential Attachment 1 to SC 1-12; and
4. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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