COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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 Certain Regulatory And Accounting Treatments; and (4) All Other Required Approvals And Relief	))))))	Case No. 2025-00257

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 following attachments to its data request responses:

(1) Attachment 1 to its response to Commission Staff Data Request 2-29 ("KPSC 2-29");

(2) Attachment 1 to its response to Commission Staff Data Request 2-86 ("KPSC 2-86");

(3) Attachments 1 and 2 to its response to Commission Staff Data Request 2-87 ("KPSC 2-87");

(4) Attachment 1 to its response to Attorney General/Kentucky Industrial Utility Customers ("AG-KIUC") Data Request 1-6 ("AG-KIUC 1-6"); and

(5) Attachment 1 to its response to AG-KIUC Data Request 1-7 ("AG-KIUC 1-7");

Specifically, Kentucky Power seeks confidential treatment of information relating to the Company's turbine reservation contract (Attachment 1 to KPSC 2-29) and the non-public, personal compensation information for the Company's executive officers and other employees (Attachment 1 to KPSC 2-86, Attachments 1 and 2 to KPSC 2-87, Attachment 1 to AG-KIUC 1-

6, and Attachment 1 to AG-KIUC 1-7). Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those attachments containing confidential information.

I. MOTION FOR CONFIDENTIAL TREATMENT

A. <u>The Requests and the Statutory Standard.</u>

Kentucky Power does not object to filing the identified information for which it is seeking confidential treatment, but it requests that the identified attachments 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.
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> …
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> (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. Attachment 1 to KPSC 2-29.

Attachment 1 to KPSC 2-29 is the Memorandum of Understanding ("MOU") that comprises the Company's turbine reservation contract ("Reservation Contract"). Kentucky Power is seeking confidential treatment of the Reservation Contract. The Reservation Contract contains key commercial terms that reflect the results of arm's length negotiations between the parties to the Reservation Contract. The Reservation Contract includes information that may constitute terms in a future contract among the parties for delivery and installation of the reserved turbines. The Reservation Contract is, by its terms, confidential. By those same terms, however, Kentucky Power is authorized to provide the Reservation Contract if confidential protection is granted. It is upon the assumption that such confidential treatment will be granted that Kentucky Power is providing the contract filed under seal.

Public disclosure of this information would give insight, not publicly available, into contract terms and conditions that both Kentucky Power and the counterparty 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.

For the reasons stated herein, Attachment 1 to KPSC 2-29 should be accorded confidential treatment indefinitely.

2. Attachment 1 to KPSC 2-86.

Attachment 1 to KPSC 2-86 includes non-public compensation information for Kentucky Power's executives officers and other employees. There are timing and methodology differences between Attachment 1 to KPSC 2-86 and the compensation information provided in annual filings with the Securities and Exchange Commission ("SEC") of the Company's parent, American Electric Power Company, Inc. ("AEP") for executive officers of AEP. Therefore, the Company is requesting confidential treatment for the compensation of "Named Executive Officers" in the Company's past proxy statements as well as that of other executives and other employees. The compensation information for the Named Executive Officers included in Attachment 1 to KPSC 2-86 for 2025 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.[1]

The identified confidential information contained in Attachment 1 to KPSC 2-86 should be kept confidential through March 31, 2026, after which time the information will be made publicly available in SEC filings. The Commission previously granted confidential treatment to similar information in Kentucky Power's last base rate case for the reasons set forth above.[2]

3. Attachment 1 and 2 to KPSC 2-87, Attachment 1 to AG-KIUC 1-6, and Attachment 1 to AG-KIUC 1-7.

Attachment 1 and 2 to KPSC 2-87, Attachment 1 to AG-KIUC 1-6, and Attachment 1 to AG-KIUC 1-7 contains non-public compensation information for Kentucky Power's non-executive employees. This compensation information is kept confidential. This confidential employee compensation information, if disclosed, would enable competitors to attempt to recruit key Company and AEP personnel and would compromise AEP's and 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

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[1] 17 C.F.R. 240.10b-5.
[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. October 2, 2023).

likely to result in increased costs and a loss of negotiating ability for the Company. Disclosure 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. [3]

The personal compensation information in Attachment 1 and 2 to KPSC 2-87, Attachment 1 to AG-KIUC 1-6, and Attachment 1 to AG-KIUC 1-7 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 previously granted confidential treatment to similar information in Kentucky Power's last two base rate cases for the reasons set forth above.[4]

B. <u>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.</u>

The identified information required to be disclosed by Kentucky Power in response to KPSC 2-29, KPSC 2-86, KPSC 2-87, AG-KIUC 1-6, and AG-KIUC 1-7 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). Kentucky Power, 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 Kentucky Power and third-party vendors who do not have a need for the information. The

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[3] *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) Approval Of A Certificate Of Public Convenience And Necessity; And (5) All Other Required Approvals And Relief,* Case No. 2020-00174 (Ky. P.S.C. October 26, 2020).
[4] *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) Approval Of A Certificate Of Public Convenience And Necessity; And (5) All Other Required Approvals And Relief,* Case No. 2020-00174 (Ky. P.S.C. October 26, 2020); 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).

information is not disclosed to persons outside Kentucky Power, AEP, or its affiliates. Within those organizations, the information is available only on 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 Order 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 Attachment 1 to KPSC 2-29;

2. According confidential status to and withholding from public inspection until March 31, 2026 Attachment 1 to KPSC 2-86;

3. According confidential status to and withholding from public inspection for five years Attachment 1 and 2 to KPSC 2-87, Attachment 1 to AG-KIUC 1-6, and Attachment 1 to AG-KIUC 1-7 ; and

4. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,

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