COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Electronic Application Of Kentucky Power Company For: (1) Approval Of Continuation Of Its Demand-Side Management Programs; (2) Authority To Recover Costs And Net Lost Revenues, And To Receive Incentives Associated With The Implementation Of Its Demand-Side Management Programs; (3) Acceptance Of Its Annual DSM Status Report; And (4) All Other Required Approvals And Relief	)	Case No. 2025-00365

<u>Kentucky Power Company's Motion For Confidential Treatment</u>

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 following attachments to its data request responses:

(1) Attachment 1 to its response to Commission Staff Post Hearing Data Request Data Request 1-15 ("KPSC PHDR 1-15"); and

(6) Attachment 1 to its response to Commission Staff Post Hearing Data Request Data Request 1-17 ("KPSC PHDR 1-17").

Specifically, Kentucky Power seeks confidential treatment of information relating to the contract it has entered into with a provider of demand-side management ("DSM") services (Attachment 1 to KPSC PHDR 1-15) and the contracts that provider has entered into with subcontractors (Attachment 1 to KPSC PHDR 1-17).

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. 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 attachments 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 following information for which Kentucky Power is seeking confidential treatment:

Attachment 1 to KPSC PHDR 1-15 is the agreement between Kentucky Power and its DSM contractor, TRC. Attachment 1 to KPSC PHDR 1-17 is the agreement between TRC and its subcontractor. These contracts include negotiated rates, terms, and conditions that the Company's DSM contractor and subcontractor treat as proprietary and confidential. Disclosure of this information would give insight that is 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. Failure to keep this information confidential would create a chilling effect in the market, limiting the number of companies willing to respond to requests for proposals or negotiate with the Company, resulting in less competitive options for the Company and higher costs for customers.

This information is exempt from disclosure under the Kentucky Open Records Act by KRS 61.878(c). Kentucky Power seeks confidential treatment of the entirety of Attachment 1 to KPSC PHDR 1-15 and Attachment 1 to KPSC PHDR 1-17 indefinitely.

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 required to be disclosed by Kentucky Power in response to KPSC PHDR 1-15 and KPSC PHDR 1-17 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 information is not disclosed to non-parties to the agreements, including 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 the entirety of Attachment 1 to KPSC PHDR 1-15 and Attachment 1 to KPSC PHDR 1-17 indefinitely; and

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

Respectfully submitted,

Kenneth J. Gish, Jr.
Harlee P. Havens
STITES & HARBISON PLLC
250 West Main Street, Suite 2300
Lexington, Kentucky 40507-1758
Telephone: (859) 226-2300
Fax: (859) 253-9144
kgish@stites.com
hhavens@stites.com

COUNSEL FOR KENTUCKY POWER COMPANY