

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

In the Matter of:

Electronic Application Of Kentucky Power Company	)	
For 1) A Certificate Of Public Convenience And	)	
Necessity To Construct A Mechanical Draft Cooling	)	
Tower At The Mitchell Plant 2) Approval Of Certain	)	Case No. 2026-00001
Regulatory And Accounting Treatments, And 3) 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 following documents:

1. Attachment 1 to its response to Commission Staff Post-Hearing Data Request 10 ("KPSC PHDR-10");
2. Attachment 1 to its response to Commission Staff Post-Hearing Data Request 11 ("KPSC PHDR-11");
3. Attachment 2 to its response to KPSC PHDR-11;
4. Attachment 3 to its response to KPSC PHDR-11;
5. Attachment 1 to its response to Commission Staff Post-Hearing Data Request 12 ("KPSC PHDR-12"); and
6. Attachment 2 to its response to KPSC PHDR-12.

Specifically, Kentucky Power seeks confidential treatment of information relating to:

1. The development of cost estimates for options to address the structural needs of the Mitchell Unit 2 Cooling Tower (Attachment 1 to KPSC PHDR-10; Attachments 1 and 2 to KPSC PHDR-11; and Attachments 1 and 2 to KPSC PHDR 12, collectively, the "Estimate Support Information"); and
2. critical energy infrastructure information ("CEII") (Attachment 3 to KPSC PHDR-11).

Pursuant to 807 KAR 5:001, Section 13(2)(a)(3), Kentucky Power is filing redacted versions of these documents.

A. 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 information be excluded from the public record and public disclosure.

KRS 61.878(1) excludes from the Open Records Act:

(c) (1) 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.

The Estimate Support Information satisfies the requirements for confidential treatment under KRS 61.878(1)(c)(1).

KRS 61.878(1)(k) exempts “all public records or information the disclosure of which is prohibited by federal law or regulation” from disclosure under the Open Records Act. Attachment 3 to KPSC PHDR-11 satisfies the statutory requirements for confidential treatment under KRS 61.878(1)(k).

KRS 61.878(1)(m)(1)(f) exempts records from public inspection that would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act, including:

Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

Attachment 3 to KPSC PHDR-11 also satisfies each of the statutory requirements for confidential treatment under KRS 61.878(1)(m)(1)(f).

1. Attachment 3 to KPSC PHDR-11.

Attachment 3 to KPSC PHDR-11 includes detailed information regarding the location, design, and engineering of the Company's Mitchell Generating Station and should be treated as confidential CEII. Federal Energy Regulatory Commission ("FERC") regulations define CEII as:

specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.¹

The FERC definition of CEII includes existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.² Attachment 3 to KPSC PHDR-11 constitutes CEII under the FERC definition and are protected from disclosure under the Freedom of Information Act by 18 C.F.R. § 388.112.

Attachment 3 to KPSC PHDR-11 is also protected from disclosure under KRS 61.878(1)(m)(1)(f). In particular, the Mitchell Generation Station is critical to the ability of Kentucky Power to provide electrical service to its customers. Prohibiting public disclosure of Attachment 3 to KPSC PHDR-11 would have a reasonable probability of protecting against, mitigating, or responding to a terrorist act, as that term is defined at KRS 61.878(1)(m)(2). Moreover, the information is exempted by KRS 61.878(1)(k) as information exempted from disclosure under federal law.

¹ 18 C.F.R. § 388.113(c)(2).

² *Id.*

Kentucky Power seeks confidential treatment of Attachment 3 to KPSC PHDR-11 for the life of the Mitchell Plant. Once the Mitchell Plant is retired the information will no longer be CEIL.

2. The Estimate Support Information.

The Estimate Support Information is comprised of estimated costs and timing associated with options for addressing the structural needs of the Mitchell Unit 2 Cooling Tower. The disclosure of the identified information in the Estimate Support Information 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 less, sell less energy, and ultimately cost more to operate, resulting in higher costs for the Company's customers.

Moreover, disclosure of the estimated costs for each compliance alternative and the estimated costs of implementing options for addressing the structural needs of the Mitchell Unit 2 Cooling Tower 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 Estimate Support Information should be kept confidential 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 and Violate Federal Law.

The identified information requested to be disclosed by Kentucky Power in response to KPSC PHDR-10, KPSC PHDR-11 and KPSC PHDR-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 for the life of the Mitchell Plant Attachment 3 to KPSC PHDR-11;
2. According confidential status to and withholding from public inspection indefinitely the Estimate Support Information; and

3. Granting such further relief to which the Company may be entitled.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be "K. J. Gish, Jr.", written over a horizontal line.

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