

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO ELECTRIC)	ADMINISTRATIVE
UTILITIES' EMERGENCY RESPONSE)	CASE NO. 345
PLANS)	

ORDER

This matter arises on two motions for confidential treatment filed by Kentucky Power Company (Kentucky Power), pursuant to 807 KAR 5:001, Section 13, and KRS 16.878, on May 1, 2020, and on May 2, 2022. Both motions request confidential treatment for an indefinite period for portions of Kentucky Power's emergency operations plans that pertain to engineering, vulnerability, and design information regarding existing critical infrastructure.

As a basis for both motions, Kentucky Power argued that public disclosure of the designated material is prohibited under KRS 61.878(1)(k), which exempts from open records laws "records or information the disclosure of which is prohibited" by federal law or regulation. Kentucky Power further argued that public disclosure is prohibited under KRS 61.878(1)(m), which exempts from open records laws records information related to critical energy infrastructure that, if publicly disclosed, "would have a reasonable likelihood of threatening the public safety by exposing a vulnerability" in preventing, protecting against, or mitigating a terrorist act. Kentucky Power explained that federal regulations promulgated by the Federal Energy Regulatory Commission (FERC) exempts the designated material from public disclosure. Kentucky Power further explained that

the designated material contains information regarding the production, generation, transportation, and transmission of energy that is critical to the safety and security of Kentucky Power's service territory.

Having considered the motion and the material at issue, the Commission finds that the designated materials in the May 1, 2020 and May 2, 2022 motions consist of critical energy infrastructure information of a type for which public disclosure is prohibited under FERC regulations, and therefore met the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001E, Section 13, KRS 61.878(1)(k), and KRS 61.878(1)(m).

IT IS THEREFORE ORDERED that:

1. Kentucky Power's May 1, 2020 and May 2, 2022 motions for confidential treatment are granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001E, Section 13(9).
4. Kentucky Power shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Kentucky Power shall have 30 days from

receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Kentucky Power is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

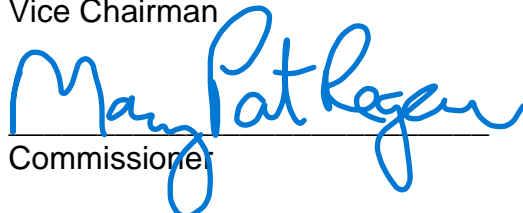
6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Kentucky Power to seek a remedy afforded by law.

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Vice Chairman


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ENTERED
JAN 20 2023
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