

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2016 INTEGRATED RESOURCE)	
PLANNING REPORT OF KENTUCKY POWER)	CASE NO.
COMPANY TO THE PUBLIC SERVICE)	2016-00413
COMMISSION OF KENTUCKY)	

ORDER

This matter arises on petitions filed on December 20, 2016, March 10, 2017, and April 7, 2017, by Kentucky Power Company (Kentucky Power), pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, requesting that designated materials filed with the Commission be afforded confidential protection.

In support of its petition filed on December 20, 2016, Kentucky Power requests confidential treatment for its December 20, 2016 Integrated Resource Planning Report (IRP), pages 226–227 for an indefinite period because the designated materials contain critical infrastructure system details for which public disclosure is prohibited by KRS 61.878(1)(k)–(m). Kentucky Power also requests confidential treatment for IRP, pages 958–1359, 1381–1382, 1385–1386, 1417, 1453–1453, 1457–1465, 1469–1477, and 1488–1497 for an indefinite period because the designated materials contain forecasted sales and electricity prices, projected costs for fuels and operation and maintenance, and projected capacity and availability factors that would result in competitive injury if publicly disclosed and are deemed confidential under KRS 61.878(1)(c)(1).

In support of its petition filed on March 10, 2017, Kentucky Power requests confidential treatment for responses to requests for information (Requests) as follows:

- Commission Staff's First Request for (Staff's First Request), Item 22, be held confidential for five years because the designated materials contain pricing information based on modeling software subject to a confidentiality agreement between Kentucky Power and a third party. Kentucky Power asserts that public disclosure of the designated materials would result in competitive injury, and therefore the designated materials are entitled to confidential treatment under KRS 61.878(1)(c)(1).

- Staff's First Request, Item 30, and Sierra Club's First Request, Item 17, because the designated materials contain estimated compliance costs associated with the Effluent Limitations Guidelines (ELG Rule). Kentucky Power asserts that public disclosure of the designated materials would result in competitive injury and therefore are entitled to confidential treatment under KRS 61.878(1)(c)(1). Kentucky Power requests the information be held confidential until December 31, 2023, which is the last date for compliance with the ELG Rule.

- Attorney General's First Request, Item 11, because the designated materials contain information related to Kentucky Power's decision whether to participate in a regional transmission organization's base residual auctions that, if publicly disclosed, would result in competitive injury. Kentucky Power requests that the designated materials be held confidential until June 1, 2017, at which time the base residual auction will have been completed and the information made public.

- Sierra Club's First Request, Item 15, be held confidential for five years because the designated materials include the copyrighted and proprietary property of a third party that is subject to a subscription agreement that prohibits reproduction of the designated materials without consent. Kentucky Power asserts that public disclosure of

the designated materials would result in competitive injury and therefore are entitled to confidential treatment under KRS 61.878(1)(c)(1).

- Sierra Club's First Request, Item 19 be held confidential for three years because the designated materials include generation unit-specific availability for which public disclosure would result in competitive injury and therefore are entitled to confidential treatment under KRS 61.878(1)(c)(1).

In support of its petition filed on April 7, 2017, Kentucky Power states that public disclosure of the designated materials contained in its response to the Attorney General's Second Request, Item 11, consist of forecasted costs to comply with the Coal Combustion Residuals Rule (CCR Rule) would result in competitive injury and therefore the designated materials are entitled to confidential treatment under KRS 61.87(1)(c)(1). Kentucky Power requests the information be held confidential until October 17, 2019, which is the last date for compliance with the ELG Rule.

Having considered the petitions and the materials at issue, the Commission finds that the designated materials described in Kentucky Power's December 20, 2016, March 10, 2017, and April 7, 2017 petitions—with the exception of the March 10, 2017 request for confidential treatment of the response to Attorney General's First Request, Item 11—meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1), KRS 61.878(1)(k), and KRS 61.878(1)(m). Kentucky Power's request for confidential treatment of its response to the Attorney General's First Request, Item 11, contained in the March 10, 2017 petition should be denied as moot because the period for which confidential treatment was requested has expired.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's December 20, 2016 and April 7, 2017 petitions for confidential treatment are granted.
2. Kentucky Power's March 10, 2017 petition for confidential treatment is granted in part and denied in part.
3. Kentucky Power's March 10, 2017 petition for confidential treatment, with the exception of the designated materials contained in its response to the Attorney General's First Request, Item 11, is granted.
4. Kentucky Power's request for confidential treatment of the designated materials contained in its response to the Attorney General's First Request, Item 11, in the March 10, 2017 petition is denied as moot.
5. Within 30 days of the date of this Order, Kentucky Power shall file a revised version of its response to the Attorney General's First Request, Item 11, reflecting as unredacted the information that has been denied confidential treatment.
6. The designated materials for which confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of this Order to allow Kentucky Power to see a remedy afforded by law.
7. The designated materials in the December 20, 2016 petition shall not be placed in the public record or made available for public inspection for an indefinite period, or until further Orders of this Commission.
8. The designated materials in the response to Staff's First Request, Item 22, and Sierra Club's First Request, Item 15, in the March 10, 2017 petition shall not be

placed in the public record or made available for public inspection for five years, or until further Orders of this Commission.

9. The designated materials in the response to Staff's First Request, Item 30, and Sierra Club's First Request, Item 17, in the March 10, 2017 petition shall not be placed in the public record or made available for public inspection until January 1, 2024, or until further Orders of this Commission.

10. The designated materials in the response to Sierra Club's First Request, Item 19, in the March 10, 2017 petition shall not be placed in the public record or made available for public inspection for three years, or until further Orders of this Commission.

11. The designated materials in the April 7, 2017 petition shall not be placed in the public record or made available for public inspection until October 18, 2019, or until further Orders of this Commission.

12. Use of the designated materials in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

13. Kentucky Power shall inform the Commission if the designated materials become publicly available or no longer qualify for confidential treatment.

14. If a non-party to this proceeding requests to inspect the designated materials granted confidential treatment by this Order and the period during which the materials have 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 materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Kentucky Power is unable to make such demonstration, the requested

materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

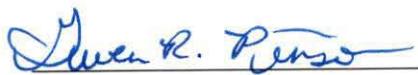
15. The Commission shall not make the designated materials available for inspection for 30 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Kentucky Power to seek a remedy afforded by law.

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By the Commission

ENTERED
FEB 20 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2016-00413

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