

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO)	CASE NO.
CONSTRUCT A 161 KV TRANSMISSION LINE IN)	2017-00328
PERRY AND LESLIE COUNTIES, KENTUCKY)	
AND ASSOCIATED FACILITIES)	

ORDER

On February 9, 2018, Kentucky Power Company (“Kentucky Power”) filed a petition, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, requesting that the Commission grant confidential protection to pages 7–24 of the Response to Item No. 2 of the Attorney General’s Supplemental Set of Data Requests (“Response No. 2”). The designated material consists of specific engineering, vulnerability, and detailed design information about critical electric infrastructure.

As a basis for its request, Kentucky Power states that disclosure of this information could be a threat to public safety by exposing the vulnerabilities of the system in regards to a terrorist act on critical electric infrastructure.

Having considered the petition and the material at issue, the Commission finds that the designated material contained in Kentucky Power’s motion is generally recognized as confidential or proprietary, and therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS 61.878(1)(m) and 807 KAR 5:001, Section 13.

More precisely, the Commission finds that under the Kentucky Open Records Act, it is entitled to withhold from public disclosure information disclosed to it to the extent that open disclosure 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” This right to protect from public disclosure includes:

(f) 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 . . . electrical . . . and;

(g) the following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps or specifications of structural elements . . . of any building or facility owned, occupied, leased, or maintained by a public agency.¹

IT IS THEREFORE ORDERED that:

1. Kentucky Power’s petition for confidential protection for all engineering, vulnerability and detailed design information that relates details about the transportation, transmission, or distribution of energy submitted by Kentucky Power in Response No. 2 is granted.

2. The designated material shall not be placed in the public record or made available for public inspection until further Orders of this Commission.

3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

4. Kentucky Power shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.

¹ KRS 61.878(1)(m).

5. If a non-party to this proceeding requests to inspect the material granted confidential treatment by this Order Kentucky Power shall have 20 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 20 days following 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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By the Commission



ATTEST:


Executive Director

Case No. 2017-00328

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