

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR APPROVAL OF A)	CASE NO.
CONTRACT FOR ELECTRIC SERVICE WITH)	2020-00019
AIR PRODUCTS AND CHEMICALS, INC.)	

ORDER

On March 11, 2020, Kentucky Power Company (Kentucky Power) filed a motion, pursuant to 807 KAR 5:001, Section 13; 807 KAR 5:011, Section 14; and KRS 61.878(1)(c)(1), requesting that the Commission grant confidential protection for exhibits to its application requesting approval for a special contract for the term of the special contract, which is seven years from the effective date of the special contract. Specifically, Kentucky Power requests confidential treatment for the designated materials in Article 5, Table 1, of the special contract, which contains the applicable contract rates; the exhibit labeled “Bill Illustration Addendum;” and Confidential Exhibit 3 to the application. Kentucky Power explained that it negotiated the special contract with its existing customer, Air Products and Chemicals Inc. (Air Products), to prevent the potential loss of Air Products’ load due to economic circumstances that could result in the closure of Air Products’ facility located in Ashland, Kentucky,

In support of its motion, Kentucky Power stated that public disclosure of the designated materials could establish a ceiling for future negotiations with industrial and commercial enterprises who are evaluating whether to locate in Kentucky Power’s service territory. Kentucky Power further stated that other customers could use the designated

materials to seek similar or lower rate treatment, which could result in commercial harm to Kentucky Power and its ratepayers by allowing competing retail electric utilities to underbid Kentucky Power or result in Kentucky Power having to bid a lower rate than might otherwise be required to secure the prospective customer. Kentucky Power cited to other proceedings in which the Commission granted confidential treatment to the same or similar material contained in similar special contracts.¹

Having considered the motion and the material at issue, the Commission finds that the designated materials are generally recognized as confidential or proprietary and therefore meets the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13; 807 KAR 5:011, Section 14; and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Kentucky Power's March 11, 2020 motion for confidential protection is granted.
2. The designated materials shall not be placed in the public record or made available for public inspection for seven years from the effective date of the special contract, or until further Order of this Commission.
3. Use of the materials 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 materials in question become publicly available or no longer qualify for confidential treatment.

¹ Case No. 2013-00148, *Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modifications* (Ky. PSC Nov. 25, 2013); Case No. 2018-00164, *The Filing of a Special Contract by Natural Energy Utility Corporation* (Ky. PSC Sept. 6, 2018).

5. If a non-party to this proceeding requests to inspect the 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 material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested 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.

By the Commission

ENTERED
MAR 30 2020 TCS
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2020-00019

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