

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) A GENERAL)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC)	
SERVICE; (2) APPROVAL OF TARIFFS AND)	
RIDERS; (3) APPROVAL OF ACCOUNTING)	CASE NO.
PRACTICES TO ESTABLISH REGULATORY)	2020-00174
ASSETS AND LIABILITIES; (4) APPROVAL OF)	
A CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY; AND (5) ALL OTHER)	
REQUIRED APPROVALS AND RELIEF)	

ORDER

On August 26, 2020, Kentucky Power Company (Kentucky Power) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for portions of its responses to Commission Staff's Fourth Request for Information (Staff's Fourth Request); the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention, and Kentucky Industrial Utility Customers, Inc.'s joint First Request for Information (Attorney General/KIUC's First Request); and to Kentucky Solar Industries Association, Inc.'s First Request for Information (KYSEIA's First Request) as follows:

- Staff's Fourth Request, Item 102, Attachment 1, which contains forecasted pricing information regarding avoided energy costs related to Tariff COGEN/SPP I and Tariff COGEN/SPP II. Kentucky Power asserted that public disclosure would result in commercial harm to Kentucky Power and its ratepayers because competitors could underbid Kentucky Power, thus harming Kentucky Power's ability to buy and sell in the

wholesale market. Kentucky Power requested confidential treatment for the designated material until December 31, 2023, when the forecast period ends and competitive advantage gained from the information would cease to exist.

- Attorney General/KIUC's First Request, Item 28, Attachment 1, which contains non-public investment information related to potential plant investments and closures that serve as a basis, in part, for calculating incentive compensation performance shares. Kentucky Power alleged that public disclosure would result in commercial harm to Kentucky Power because competitors could use the information to estimate Kentucky Power's generation position, and thus impact competitors' generation offers. Kentucky Power asserted that competing energy marketers and traders could use the information to adversely influence Kentucky Power's cost of providing electricity to customers. Kentucky Power requested that the designated material be held confidential for three years, at which time the competitive advantage gained from the information would cease to exist.

- Attorney General/KIUC's First Request, Item 93, Attachments 1–2, which contain GPS coordinates of Kentucky Power's communication towers. Kentucky Power explained that the designated material is considered critical electric infrastructure information for which public disclosure is prohibited by 18 CFR § 388.112. Kentucky Power further explained that the designated material are records that are exempt from public disclosure under federal law, and thus public disclosure is prohibited by KRS 61.878(1)(k). Finally, Kentucky Power explained that the designated material is exempt from public disclosure under KRS 61.878(1)(m), which requires confidential treatment of material that, if disclosed, would have a reasonable likelihood of threatening

the public safety by protecting against, mitigating, or responding to a terrorist act. Kentucky Power requested confidential treatment for an indefinite period of time.

- Attorney General/KIUC's First Request, Item 97, Attachment 1, which contains AMI meter pricing information provided by prospective vendors. Kentucky Power alleged that public disclosure could result in commercial harm because competing suppliers would be disincentivized to provide competitive prices and discounts to Kentucky Power. Kentucky Power requested that the designated material be held confidential for ten years, at which time any competitive advantage gained from the information would no longer exist.

- KYSEIA's First Request, Item 7, Attachment 1, which contains projected hourly solar production data for a potential solar facility in Kentucky Power's service territory that has since been canceled. Kentucky Power stated that the information is subject to nondisclosure agreements between its parent, American Electric Power Company, Inc. (AEP) and a third party vendor. Kentucky Power asserted that public disclosure would result in competitive harm by limiting Kentucky Power's ability to negotiate and obtain data from third party vendors. Kentucky Power further asserted that public disclosure would cause potential third parties to be unwilling to enter into negotiations with Kentucky Power in the future. Kentucky Power requested that the designated material be held confidential for two years, at which time any competitive advantage gained from the information would no longer exist.

- KYSEIA's First Request, Item 28, Attachment 1, which contains forecasted costs associated with compliance with environmental regulations, including estimated costs for compliance with potential changes in environmental regulations. Kentucky

Power alleged that public disclosure would result in commercial harm to Kentucky Power because competitors would gain commercial advantage by using the information to develop cost estimates without incurring the same significant costs incurred by Kentucky Power to develop the information. Kentucky Power further alleged that public disclosure of the designated information could adversely impact Kentucky Power's participation in the wholesale energy market. Kentucky Power requested that the designated material be held confidential for ten years, at which time the information will be sufficiently aged and of little competitive value.

Having considered the motion and the material at issue, the Commission finds as follows:

1. The designated material in Kentucky Power's response to Staff's Fourth Request, Item 102, Attachment 1; Attorney General/KIUC's First Request, Item 28, Attachment 1; Attorney General/KIUC's First Request, Item 97, Attachment 1; KYSEIA's First Request, Item 7, Attachment 1; and KYSEIA's First Request, Item 28, Attachment 1, are generally recognized as confidential or proprietary, and therefore meet the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

2. The designated material in Kentucky Power's response to Attorney General/KIUC's First Request, Item 93, Attachments 1 and 2, are records for which federal law prohibit public disclosure, and are records containing critical electric infrastructure information, and thus are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(k), and KRS 61.878(1)(m).

IT IS THEREFORE ORDERED that:

1. Kentucky Power's August 26, 2020 motion for confidential protection is granted.

2. The designated information contained in Kentucky Power's response to Staff's Fourth Request, Item 102, Attachment 1, shall not be placed in the public record or made available for public inspection until December 31, 2023, or until further Order of this Commission.

3. The designated information contained in Kentucky Power's response to KYSEIA's First Request, Item 7, Attachment, shall not be placed in the public record or made available for public inspection for two years or until further Order of this Commission.

4. The designated information contained in Kentucky Power's response to Attorney General/KIUC's First Request, Item 28, Attachment 1, shall not be placed in the public record or made available for public inspection for three years or until further Order of this Commission.

5. The designated material contained in Kentucky Power's response to Attorney General/KIUC's First Request, Item 97, Attachment 1, and KYSEIA's First Request, Item 28, Attachment 1, shall not be placed in the public record or made available for public inspection for ten years or until further Order of this Commission.

6. The designated information contained in Kentucky Power's response to Attorney General/KIUC's First Request, Item 93, Attachments 1–2, 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.

7. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

8. 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.

9. 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.

10. 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.

By the Commission



ATTEST:



Deputy Executive Director

Case No. 2020-00174

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Thomas J FitzGerald
Counsel & Director
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KENTUCKY 40602

*Lisa A. Lucas
Administrative Assistant
Jenkins Fenstermaker, PLLC
325 Eighth Street
Huntington, WEST VIRGINIA 25701

*Barry Alan Naum
Spilman Thomas & Battle, PLLC
1100 Brent Creek Blvd., Suite 101
Mechanicsburg, PENNSYLVANIA 17050

*Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Clay A. Barkley
Strobo Barkley PLLC
239 South 5th Street
Ste 917
Louisville, KENTUCKY 40202

*Joe F Childers
Joe F. Childers & Associates
300 Lexington Building
201 West Short Street
Lexington, KENTUCKY 40507

*Michael A Frye
Honorable
Jenkins Fenstermaker, PLLC
325 Eighth Street
Huntington, WEST VIRGINIA 25701

*Carrie H Grundmann
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NORTH CAROLINA 27103

*John Horne
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Matt Partymiller
President
Kentucky Solar Industries Association
1038 Brentwood Court
Suite B
Lexington, KENTUCKY 40511

*Christen M Blend
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*J. Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Don C Parker
Spilman Thomas & Battle, PLLC
300 Kanawha Blvd, East
Charleston, WEST VIRGINIA 25301

*Kentucky Power Company
1645 Winchester Avenue
Ashland, KY 41101

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Honorable David Edward Spenard
Strobo Barkley PLLC
239 South 5th Street
Ste 917
Louisville, KENTUCKY 40202

*Katie M Glass
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Honorable Mark R Overstreet
Attorney at Law
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Robert D. Gladman
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Randal A. Strobo
Strobo Barkley PLLC
239 South 5th Street
Ste 917
Louisville, KENTUCKY 40202