

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC EXAMINATION OF THE)	
APPLICATION OF THE FUEL ADJUSTMENT)	CASE NO.
CLAUSE OF KENTUCKY POWER COMPANY)	2021-00053
FROM NOVEMBER 1, 2018 THROUGH)	
OCTOBER 31, 2020)	

ORDER

On March 22, 2021, 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 treatment until January 1, 2023, for redactions to its responses to Commission Staff's First Request for Information (Staff's First Request), Items 31, 32, and 33.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."¹ Kentucky Power sought application of KRS 61.878(1)(c)(1), which exempts records that are "[g]enerally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records." Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly

¹ KRS 61.872(1).

construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

Kentucky Power sought confidential treatment for its redactions from Attachments 1 and 2 to Staff's First Request, Item 31. Attachment 1 consists of a list of monthly coal consumption forecasts for the Mitchell plant for 2021-22 with forecasted cost figures. Attachment 2 consists of a list of monthly gas consumption forecasts for the Big Sandy unit 1 plant for 2021-22 with forecasted cost figures. Kentucky Power argued that if fuel use and cost forecasts were disclosed, suppliers and energy market competitors could formulate unfair competitive bidding strategies that would hamper Kentucky Power's ability to compete against them.

Kentucky Power also asked for confidential treatment for energy revenue figures for 2021-22, itemized by class and redacted from its response to Staff's First Request, Item 32. Kentucky Power argued that energy market competitors could unfairly compete if its revenue were disclosed because its energy market pricing could be determined.

Lastly, Kentucky Power argued for confidential treatment for planned maintenance outages for 2021-22, redacted from its response to Staff's First Request, Item 33. Kentucky Power stated that energy market participants could estimate Kentucky Power's generation position and raise generation offers if it knew when Kentucky Power would be short on energy due to outages. Kentucky Power seeks confidential treatment for all of the designated information until January 1, 2023, when these forecasts will be obsolete.

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

Having considered the motion and the material at issue, the Commission finds that Kentucky Power's motion is granted. All of Kentucky Power's designated forecasts would assist energy market competitors with unfair strategies based on Kentucky Power's demand and pricing if publicly disclosed. Disclosure of the fuel demand forecasts would also disadvantage Kentucky Power in fuel contract bidding with suppliers. The Commission has previously granted confidential treatment for this type of information.⁴ The designated material is generally recognized as confidential or proprietary and would permit an unfair commercial advantage to Kentucky Power's competitors if publicly disclosed; it, therefore, meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Kentucky Power's motion for confidential treatment is 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 Until January 1, 2023 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 5:001, Section 13(9).

⁴ Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Dec 8, 2021), Order at 4-5, granting confidential treatment for forecasted gas demand; Case No. 2014-00134, *Big Rivers Electric Corporation Filing of Wholesale Contracts Pursuant to KRS 278.180 and KAR 5:011 513* (Ky. PSC Dec. 17, 2014), Order at 3-4 granting confidential treatment for forecasted revenue; Case No. 2014-00372, *Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates* (Ky. PSC Jan. 14, 2016), Order at 2, 5, granting confidential treatment for scheduled outages.

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.

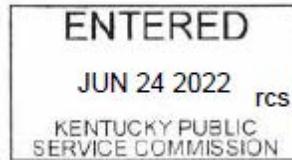
PUBLIC SERVICE COMMISSION



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ATTEST:



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