

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)	2023-00159
ASSETS AND LIABILITIES; (4) A)	
SECURITIZATION FINANCING ORDER; AND (5))	
ALL OTHER REQUIRED APPROVALS AND)	
RELIEF)	

ORDER

On September 19, 2023, 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 for an indefinite period for private letter ruling requests (PLR) from affiliates of Kentucky Power to the Internal Revenue Service (IRS) in response to the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), and Kentucky Industrial Utility Customers, Inc.'s (KIUC) joint First Request for Information (jointly, Attorney General/KIUC's First Request), Item 26, Attachments 1, 2, and 3.

DISCUSSION

In support of its motion, Kentucky Power stated the PLRs provided as attachments to its response to Attorney General/KIUC's First Request, Item 26 should be held confidential pursuant to KRS 61.878(1)(k), which exempts from disclosure "[a]ll public

records or information which is prohibited by federal law or regulation or state law.”

Kentucky Power cited 26 U.S.C. 6103(a), which states:

Returns and return information shall be confidential, and except as authorized by this title—

(2) no officer or employee of any State, any local law enforcement agency receiving information under subsection (i)(1)(C) or (7)(A), any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D) who has or had access to returns or return information under this section or section 6104(c) shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term “officer or employee” includes a former officer or employee.

Kentucky Power argued that PLRs constitute “tax return information” under federal law. Kentucky Power further argued that state and federal law grants broad protection from governmental disclosure of tax return information pursuant to 26 U.S.C. 6103(a)(2) and KRS 61.878(1)(k). Kentucky Power asserted that the information is highly confidential and not normally disclosed to persons outside of Kentucky Power, its parent company, and its affiliates, and is only disclosed to persons within Kentucky Power on a need-to-know basis.

Having considered the motion and the material at issue, the Commission finds that the information is generally recognized as confidential or proprietary as tax return information; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(k).

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 for an indefinite period 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. 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.

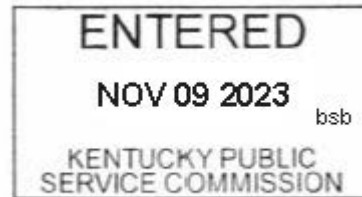
6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Kentucky Power to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner



ATTEST:


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