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PUBLIC SERVICE  
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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Investigation Into Electric Utilities ) Administrative Case No. 345  
Emergency Response Plans )

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**MOTION FOR CONFIDENTIAL TREATMENT**

Kentucky Power Company moves the Commission pursuant to 807 KAR 5:001, Section 13, for an Order granting confidential treatment to the identified information contained in Kentucky Power’s Emergency Operations Plan. The Emergency Operations Plan is being filed pursuant to the Commission’s March 1, 1993 Order in Administrative Case No. 345. In support of its motion, Kentucky Power states:

1. The Emergency Operations Plan is sensitive as a whole but the identified portions of the filing include Critical Energy Infrastructure Information (“CEII”). See Affidavit of Michael R. Richardson at ¶¶ 3-5 (“Richardson Affidavit”). The identified information is treated by the Federal Energy Regulatory Commission as CEII that is exempt from public disclosure.

2. Specifically, Kentucky Power is seeking confidential treatment for the information in Paragraph 5 of the Richardson Affidavit.

**Pertinent Statutory Standards.**

3. KRS 61.878(1)(m)(1)(f) exempts records from public inspection that 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, including:

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 information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

The CEII for which confidential treatment is sought satisfies the statutory requirements for confidential treatment under KRS 61.878(m)(1)(f). KRS 61.878(1)(k) also exempts “all public records or information the disclosure of which is prohibited by federal law or regulation” from disclosure under the Open Records Act.

5. The Confidential Information contained in the Emergency Operations Plan is considered by the FERC as CEII, and as such is exempt from public disclosure in accordance with FERC rules. Richardson Affidavit at ¶ 4. FERC Rule 18 C.F.R. § 388.113(c) defines CEII as:

specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the general location of the critical infrastructure.

The CEII for which confidential treatment is sought satisfies these requirements.

Richardson Affidavit at ¶ 4.

6. 18 C.F.R. § 388.112 exempts such information from mandatory disclosure under the Freedom of Information Act. FERC provides access to CEII documents to those with a legitimate need for the information following an execution of a non-disclosure agreement.

7. The CEII for which confidential treatment is sought is protected from disclosure. In particular, the transmission and generation specific details describing system priorities and priorities when addressing a blackout situation are critical to the safety and security of the region as supporting the very nature of the electric system. See Richardson Affidavit at ¶¶ 4-5. The disclosure of this information could be useful to a person planning a terrorist act, as that term is defined at KRS 61.878(1)(m)(2). See Richardson Affidavit at ¶¶ 4-5.

8. Similar information was protected from public disclosure by the Commission's July 18, 2014 Order in Case No. 2013-00475.<sup>1</sup> Kentucky Power also sought confidential treatment for CEII contained in the Company's May 1, 2014 Emergency Operations Plan. The Company's records do not indicate whether the Commission ruled on that motion.

9. The Company takes reasonable measures to prevent the disclosure of such information outside the Company, and the information is disseminated within the Company on a need-to-know basis. See Richardson Affidavit at ¶ 7. None of the information for which confidential protection is sought is readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use. *Id.* at ¶¶ 6-7. Moreover, the Company believes that independent research by persons not privy to the information would not reveal this level of detailed information. *Id.* ¶ 6.

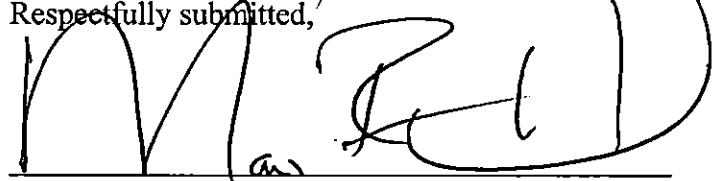
10. Pursuant to 807 KAR 5:001, Section 13(a)(3), Kentucky Power is filing under seal the pages containing the information for which confidential treatment is being sought. The confidential information is highlighted in yellow. Kentucky Power also is filing a redacted copy of the filing.

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<sup>1</sup> Order, *In the Matter of: Integrated Resource Planning Report Of Kentucky Power Company To The Kentucky Public Service Commission*, Case No. 2013-00475 at ¶ 3 (Ky. P.S.C. July 18, 2014).

11. For the foregoing reasons, Kentucky Power requests the Kentucky Public Service Commission to afford confidential treatment to the CEII described in the Richardson Affidavit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Overstreet', is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

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