

BOEHM, KURTZ & LOWRY

ATTORNEYS AT LAW
36 EAST SEVENTH STREET
SUITE 1510
CINCINNATI, OHIO 45202
TELEPHONE (513) 421-2255
TELECOPIER (513) 421-2764

Via Overnight Mail

September 21, 2012

Mr. Jeff Derouen, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

RECEIVED

SEP 24 2012

PUBLIC SERVICE
COMMISSION

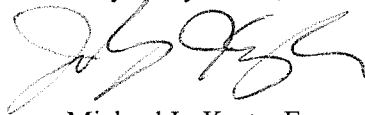
Re: Case No. 2012-00226

Dear Mr. Derouen:

Please find enclosed the original and ten (10) copies each of: 1) KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC. RESPONSES TO COMMISSION STAFF'S REQUEST FOR INFORMATION; and 2) PUBLIC VERSION of KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC. RESPONSES TO KENTUCKY POWER'S DATA REQUESTS and 3) PETITION FOR CONFIDENTIAL TREATMENT OF INFORMATION for filing in the above-referenced docket. I also enclose one (1) copy of the CONFIDENTIAL ATTACHMENTS to be filed under seal.

By copy of this letter, all parties listed on the Certificate of Service have been served. Please place this document of file.

Very Truly Yours,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody M. Kyler, Esq.

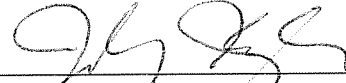
BOEHM, KURTZ & LOWRY

MLKkew
Attachment

cc: Certificate of Service
Faith Burns, Esq.
Richard Raff, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy via electronic mail (when available) and Overnight Mail to all parties on this 21st day of September, 2012.



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody M. Kyler, Esq.

MARK R OVERSTREET, ESQ.
STITES & HARBISON
421 WEST MAIN STREET
P. O. BOX 634
FRANKFORT, KENTUCKY 40602-0634

DENNIS G. HOWARD, II. ESQ.
ASSISTANT ATTORNEY GENERAL'S OFFICE
1024 CAPITAL CENTER DRIVE, STE 200
FRANKFORT, KENTUCKY 40601-8204

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of the:

APPLICATION OF KENTUCKY POWER)	
COMPANY TO WITHDRAW ITS TARIFF RTP)	CASE NO.
PENDING SUBMISSION BY THE COMPANY)	2012-00226
AND APPROVAL BY THE COMMISSION OF A)	
NEW REAL-TIME PRICING TARIFF)	

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**PETITION OF
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.
FOR CONFIDENTIAL TREATMENT OF INFORMATION**

**PUBLIC SERVICE
COMMISSION**

Pursuant to 807 KAR 5:001, Section 7, Kentucky Industrial Utility Customers, Inc. ("KIUC") petitions the Commission for confidential treatment of information provided in response to a number of data requests from Kentucky Power Company ("Kentucky Power").

Kentucky Power Data Requests 1-12, 18-22, 26-29, and 34 ask for information from individual KIUC members related to their evaluation and consideration of Tariff RTP and proposed Rider RTP. Some of the information that KIUC will provide in response to these data requests is commercially sensitive information (pricing information, internal economic analyses, etc.) that would provide an unfair commercial advantage to competitors of the KIUC member companies, if disclosed. This commercially sensitive information is kept confidential by the KIUC members and not disseminated to others unless they have a legitimate need to know and act upon the information. Such information is protected from disclosure even amongst the KIUC members involved in this proceeding.

The KIUC member companies served under Tariff RTP are all energy-intensive. Because the cost of electricity is a very important part of their cost of doing business, if competitors were made aware of such pricing it could provide such competitors with an unfair advantage and harm the Kentucky economy.

Pursuant to KRS 61.878(1)(c)(I), the following records are exempted from disclosure under the Kentucky Open Records Act:

"[R]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records..."¹

Pursuant to 807 KAR 5:001, Section 7, KIUC has filed with the Commission and served the parties with copies of its data responses. An original of the responses for which confidential treatment is sought is filed with this petition.

Based on the foregoing, KIUC respectfully requests that the Commission grant its Petition for Confidential Treatment of Information. The attached Confidentiality Agreement has been circulated to Kentucky Power, who has already executed the agreement.

Respectfully submitted,



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody M. Kyler, Esq.

BOEHM, KURTZ & LOWRY

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: mkurtz@BKLawfirm.com

kboehm@BKLawfirm.com

jkyler@BKLawfirm.com

**COUNSEL FOR KENTUCKY INDUSTRIAL UTILITY
CUSTOMERS, INC.**

September 21, 2012

¹ KRS 61.878(1)(c).

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In The Matter Of:

The Application Of Kentucky Power)	
Company To Withdraw Its Tariff RTP)	
Pending Submission By The Company)	Case No. 2012-00226
And Approval By The Commission Of)	
A New Real-Time Pricing Tariff.)	

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("Agreement") is entered into by and between the Kentucky Industrial Customers, Inc. ("KIUC") and Kentucky Power Company ("Kentucky Power").¹¹

1. This Agreement shall govern the use of all Protected Materials produced by, or on behalf of, KIUC members in: In The Matter Of: The Application Of Kentucky Power Company To Withdraw Its Tariff RTP Pending Submission By The Company And Approval By The Commission Of A New Real-Time Pricing Tariff, Case No. 2012-00226 (the "Proceeding.") Notwithstanding any order terminating this Proceeding this Agreement shall remain in effect until specifically modified or terminated by the Kentucky Public Service Commission ("Commission").

2. "Authorized Representative" shall mean a person who has signed the attached Non-Disclosure Certificate and who is: (a) an attorney who has made an appearance in this Proceeding for Kentucky Power; (b) attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in (a); (c) an employee or independent contractor of Kentucky Power or American Electric Power Service Corporation involved in this case including any expert or employee of an expert retained by Kentucky Power in this Proceeding for the purpose of advising, preparing for or testifying in this Proceeding.

3. "Protected Materials" are materials so designated by KIUC that customarily are treated by KIUC members as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject KIUC members to risk of competitive disadvantage or other business injury. Protected Materials shall

¹ As used in this Agreement, Kentucky Power includes its Authorized Representatives as defined below.

not include the following: (a) any information or document that has been filed with and placed of record in the public files of the Commission, or contained in the public files of any other federal or state agency, or any federal or state court, unless the information or document has been determined to be protected by such agency or court; or (b) information that is public knowledge or becomes public knowledge, other than through disclosure in violation of this Agreement or in violation of a similar agreement executed by KIUC members.

4. "Notes of Protected Materials" means memoranda, handwritten notes, or any other form of information (including electronic information) that copies or discloses Protected Materials. Notes of Protected Materials are subject to the same restrictions provided in this Agreement for Protected Materials except as specifically provided otherwise in this Agreement.

5. Protected Materials shall be made available under the terms of this Agreement to Kentucky Power solely for its use in this Proceeding and any appeals from this Proceeding, and may not be used by Kentucky Power for any commercial, business, or other purpose whatsoever.

6. Protected Materials shall remain available to Kentucky Power until an order terminating this Proceeding becomes no longer subject to judicial review. If requested to do so in writing after that date, Kentucky Power shall, within fifteen days of such request, return the Protected Materials (excluding Notes of Protected Materials) to KIUC, or shall destroy the materials, except that copies of filings, official transcripts and exhibits in this Proceeding that contain Protected Materials and Notes of Protected Materials may be retained, if they are maintained in accordance with Paragraph 7 of this Agreement. Within such time period, Kentucky Power, if requested to do so, shall also submit to KIUC an affidavit stating that, to the best of its knowledge, all Protected Materials and all Notes of Protected Materials have been returned or have been destroyed or will be maintained in accordance with Paragraph 7 below. To the extent Protected Materials are not returned or destroyed, they shall remain subject to this Agreement.

7. All Protected Materials shall be maintained by Kentucky Power in a secure place. Access to those materials shall be limited to Authorized Representatives. Protected Materials shall be treated as confidential by Kentucky Power and the Authorized Representatives in accordance with the certificate executed pursuant to Paragraph 8 below. Protected Materials shall not be used except as necessary for the conduct of this

Proceeding, nor shall they be disclosed in any manner to any person except an Authorized Representative who is engaged in the conduct of this Proceeding and who needs to know the information in order to carry out that person's responsibilities in this Proceeding. Authorized Representative may make notes of Protected Materials, which shall be treated as Notes of Protected Materials if they disclose the contents of Protected Materials. Authorized Representatives may not use information contained in any Protected Materials obtained through this Proceeding to give Kentucky Power or any competitor or potential competitor of KIUC members a commercial advantage or otherwise economically disadvantage KIUC members based on disclosure of the Protected Materials.

8. An Authorized Representative shall not be permitted to inspect, participate in discussion regarding, or otherwise be permitted access to Protected Materials unless that Authorized Representative has first executed the attached Non-Disclosure Certificate, provided that if an attorney qualified as an Authorized Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. Attorneys qualified as Authorized Representatives are responsible for ensuring that persons under their supervision or control comply with this order. A copy of each Non-Disclosure Certificate shall be provided to KIUC prior to disclosure of any Protected Materials to an Authorized Representative.

9. Any Authorized Representative may disclose Protected Materials to any other Authorized Representative as long as the disclosing Authorized Representative and the receiving Authorized Representative have both executed a Non-Disclosure Certificate. In the event that any Authorized Representative to whom the Protected Materials are disclosed ceases to be engaged in these proceedings, access to Protected Materials by that person shall be terminated. Even if no longer engaged in this Proceeding, every person who has executed a Non-Disclosure Certificate shall continue to be bound by the provisions of this Agreement and the Non-Disclosure Certificate.

10. Kentucky Power shall take all reasonable precautions necessary to assure that Protected Materials are not distributed to unauthorized persons.

11. All copies of all documents reflecting Protected Materials, including the portion of the hearing

testimony, exhibits, transcripts, briefs and other documents that refer to Protected Materials, shall be filed and served in compliance with the applicable procedures for filing confidential information in this Proceeding. If Kentucky Power seeks to make use of or reference to Protected Materials, it must do so in conformity with 807 KAR 5:001, Section 7. Nothing in this Agreement shall be construed as precluding KIUC from objecting to the use of Protected Materials on any legal grounds. Moreover, nothing in this Agreement shall be construed as a waiver of KIUC's right to object to data requests or other requests for information or documents from Kentucky Power.

12. Nothing in this Agreement shall preclude Kentucky Power from requesting that the Commission find that this Agreement should not apply to all or any materials designated as Protected Materials pursuant to this Agreement. However, Kentucky Power shall continue to treat any Protected Materials as Protected Materials under this Agreement until the conclusion of all appeals from a Commission order finding that such materials should not be designated as Protected Materials. Neither Kentucky Power nor KIUC waives its rights to seek additional administrative or judicial remedies following a Commission finding that Protected Materials are not subject to protection.

13. The parties and Authorized Representatives agree by execution of this Agreement that the sole and exclusive remedy for any alleged breach of this Agreement by Kentucky Power shall be an injunctive proceeding pursuant to CR 65 et seq. of the Kentucky Rules of Civil Procedure brought in the Franklin Circuit Court and the appellate courts of Kentucky, with each party bearing its own costs. The parties further agree to waive any other remedies that may be available outside of injunctive relief from the Franklin Circuit Court. Each person signing the Non-Disclosure Certificate agrees to submit to the jurisdiction of the Franklin Circuit Court and the appellate courts of Kentucky with respect to any action alleging a breach of this Agreement. The parties and each Authorized Representative further agree that the disclosure of any information in violation of this Agreement shall result in immediate and irreparable injury to KIUC for which there is no remedy at law. The contents of Protected Materials or any other form of information that copies or discloses Protected Materials, including Notes of Protected Materials, shall not be disclosed to anyone other than in accordance with this Non-Disclosure Agreement and shall be used only in connection with this Proceeding.

14. If KIUC inadvertently provides documents or information protected by the attorney-client privilege, work product doctrine, or other legal privilege, or otherwise fails to designate materials as Protected Materials at the time they are provided to Kentucky Power or its Authorized Representative (“the Receiving Party”), KIUC shall notify the Receiving Party promptly upon discovery of the inadvertent disclosure. The Receiving Party agrees that such inadvertent disclosure does not waive the confidentiality or privilege protecting the information, agrees to immediately return the privileged information, to protect the confidential materials as Protected Materials, and to not use any information derived from such inadvertent disclosure in a manner inconsistent with the preservation of the privileged or confidential nature of the materials unless the materials were publicly disclosed prior to the notice being delivered to Kentucky Power or its Authorized Representative. Nothing in this paragraph shall be construed as precluding the right of Kentucky Power to challenge any claim of confidentiality or privileged status.

EXECUTED THIS ____ DAY OF September, 2012.

BY: KENTUCKY POWER COMPANY

BY: KENTUCKY INDUSTRIAL UTILITY
CUSTOMERS, INC.

Counsel

Counsel

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In The Matter Of:

The Application Of Kentucky Power)	
Company To Withdraw Its Tariff RTP)	
Pending Submission By The Company)	Case No. 2012-00226
And Approval By The Commission Of)	
A New Real-Time Pricing Tariff.)	

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that access to Protected Materials is provided to me pursuant to the terms and restrictions of the Non-Disclosure Agreement between Kentucky Industrial Customers, Inc. and Kentucky Power Company in this Proceeding, that I have been given a copy of and have read the Non-Disclosure Agreement, and that I agree to be bound by it. I understand that the contents of the Protected Materials, any notes or other memoranda, or any other form of information that copies or discloses Protected Materials shall not be disclosed to anyone other than in accordance with that Protective Agreement, and will be used only for the purposes of this Proceeding.

Print and Sign Name

Address
