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JUN 10 2013

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

The Application of Kentucky Power Company To)
Amend Its Demand-Side Management Program)
And For Authority To Implement A Tariff To Recover) Case No. 2013-00138
Costs And Net Lost Revenues, And To Receive)
Incentives Associated With The Implementation)
Of The Programs)

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PETITION FOR CONFIDENTIAL TREATMENT

Kentucky Power Company ("Kentucky Power") moves the Commission pursuant to 807 KAR 5:001, Section 7, for an Order granting confidential treatment to Kentucky Power's Response to Staff Data Request Number 2-4 issued on May 30, 2013.

Pursuant to 807 KAR 5:001 an original of the response for which confidential treatment is sought is filed as part of Kentucky Power's original filing in response to the Information requests. In addition, ten redacted copies of the subject Response are filed with the remaining Responses to the Data Requests.

A. The Request And The Statutory Standard.

Refer to the Response to Commission Staff's First Request For Information, Item 7.b. Provide the detail of Contractor Administration Costs totaling \$425,685.

Kentucky Power does not object to providing to the Commission the data sought in the data request. However, the data should be afforded confidential treatment.

KRS 61.878(1)(c)(1) excludes from the Open Records Act:

Upon and after July 15, 1992, records confidentially disclosed to an agency or required 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.

This exception applies to Kentucky Power's response to Staff Data Request 2-4.

B. The Nature of Kentucky Power's Injury that Will Result from Disclosure of the Confidential Information.

Specific pricing and other information contained in service contracts between Kentucky Power and its program implementation contractors and vendors is considered confidential and proprietary information by the contractors and vendors. Such contracts, including the contract between Kentucky Power and Kema Services, Inc., include provisions that preclude Kentucky Power from making the information sought by the Staff publicly available. Disclosure of the responses will place both the vendor names and cost information in the public domain. This will allow competitors of the current vendors to reverse engineer the bids made by the current bidders. The competitors can then use that information to their competitive advantage in future dealings with Kentucky Power and other AEP operating companies that have implemented programs similar to the Kentucky Power program at issue.

Public disclosure of the information for which confidential treatment is sought may limit the number of vendors willing to enter into such contracts with Kentucky Power. This in turn could reduce competition among vendors and lead to higher prices or lesser services. This would place Kentucky Power at a competitive disadvantage vis-à-vis other utilities. In addition, vendors take steps to safeguard the confidentiality of the information at issue and public disclosure will pose problems for them to the extent they offer similar services to other customers at different prices.

C. The Information Is Generally Recognized As Confidential and Proprietary.

First, the records to be filed with the Commission are "generally recognized as confidential or proprietary." The Staff's requests call for sensitive cost information that is highly confidential, and confidentiality is critical to the bid process. Dissemination of the information for which confidential treatment is being requested is restricted by Kentucky Power, AEPSC, and, upon information and belief, Kema Services, Inc. In addition, the Commission afforded confidential treatment to similar information in an order entered on October 20, 2011 in *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Review, Modification, and Continuation of Existing, and Addition of New Demand-Side Management and Energy Efficiency Programs*, Case No. 2011-00134.

D. Disclosure Of The Information Will Result In An Unfair Commercial Disadvantage for Kentucky Power.

In general, the disclosure of the information for which confidential treatment is sought may place Kentucky Power at an unfair commercial disadvantage. For example, vendors who might otherwise bid in response to Kentucky Power Requests for Proposals ("RFPs") may not be willing to do so if their confidential and proprietary cost information is subject to public disclosure. Limiting the number of vendors willing to bid may lead to higher pricing for similar services in the future.

Moreover, vendors will be able to use the publicly disclosed confidential pricing information to their advantage in future RFPs with Kentucky Power and other AEP operating companies. For example, if a prospective vendor learns through review of the confidential information that the Company was willing to pay \$50,000 for a particular service, that prospective vendor could resist lowering its price for the same service

below \$50,000. The prospective vendor will gain an unfair bargaining advantage – an advantage that would work to the detriment of Kentucky Power and its ratepayers. Such a result is antithetical to the purpose of the bidding process and contrary to the goal of providing the lowest reasonable retail electric rates.

Equally important is the fact Kentucky Power is a regulated electric utility with the Commission serving to protect the public interest in the absence of competition. If Kentucky Power's costs increase because of public disclosure of the commercially sensitive information, Kentucky Power, its customers and the regulatory process will suffer.

E. The Information Is Required To Be Disclosed To An Agency.

Finally, the records requested in Staff Data Request 2-4 is by the terms of the Data Request required to be disclosed to the Commission, a “public agency” as that term is defined at KRS 61.870(1).

F. Period For Which Confidential Treatment Is Sought.

Kentucky Power requests the information be withheld from public disclosure until December 31, 2016. The contract with Kema Services, Inc. extends through December 31, 2013, and the one extension beyond its expiration will ensure that the information will not be available for the next RFP regarding the subject services, and increasing the likelihood the information will be stale when it is finally made public.

Wherefore, Kentucky Power Company respectfully requests the Commission to enter an Order:

1. According confidential status to and withholding from public inspection Kentucky Power's responses to Staff Data Requests 2-4; and

2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,

A handwritten signature in black ink, consisting of two parts. The first part is a stylized 'M' followed by 'an', and the second part is a large, circular flourish containing the letters 'R' and 'B'. A horizontal line is drawn below the signature.

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