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MAY 01 2013

PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter Of:

The Application Of Kentucky Power Company For:	)	
(1) The Approval Of The Terms And Conditions Of The	)	
Renewable Energy Purchase Agreement For Biomass	)	
Energy Resources Between The Company And	)	Case No. 2013-00144
ecoPower Generation-Hazard LLC; (2) Authorization	)	
To Enter Into The Agreement; (3) The Grant Of Certain	)	
Declaratory Relief; And (4) The Grant Of All	)	
Other Required Approvals and Relief	)	

**Kentucky Power Company’s Contingent Motion For Leave To File A Reply In Support Of  
Its Motion For Confidential Treatment And Supporting Affidavit**

Kentucky Power Company moves the Public Service Commission of Kentucky pursuant to 807 KAR 5:001, Section 21 for leave to file a Reply in support of its motion for confidential treatment and to supplement its reply with the Affidavit of Jay F. Godfrey. In support of its motion Kentucky Power states:

807 KAR 5:001, Section 5(3) permits a moving party to file a reply in support of its motion within five days of “the filing of the most recent response to the party’s motion.”<sup>1</sup> By contrast, although 807 KAR 5:001, Section 13(2)(e) permits the filing of a response to a motion for confidential treatment, it makes no provision for a party seeking confidential treatment to file a reply. Because 807 KAR 5:001, Section 13(2)(e) does not prohibit the filing of a reply in support of a motion for confidential treatment, it appears that 807 KAR 5:001, Section 5(3) should govern and that the Company is entitled to file its reply.

To the extent the Company is not permitted under 807 KAR 5:001, Section 13(2)(e) to file its reply, it seeks leave by this motion to do so. The tendered reply will aid the Commission in its resolution of the Company’s motion and KIUC’s opposition. In addition, Kentucky Power

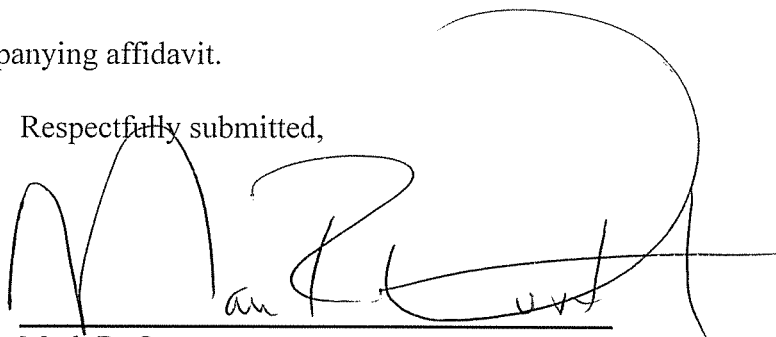
<sup>1</sup> The reply is being filed within five days of the date KIUC’s response was filed.

has never had an opportunity to be heard on KIUC's objection. Due process, at a minimum, requires that a party be provided an opportunity to be heard.<sup>2</sup> Finally, KIUC's will not be prejudiced by granting Kentucky Power's motion.

Kentucky Power is also filing with its reply the affidavit of Jay F. Godfrey. Although not required by either KRS 61.878 or 807 KAR 5:001, Section 13, the affidavit further supports the Company's motion for confidential treatment and will aid the Commission in its resolution of the motion for confidential treatment. The Commission's regulations do not prohibit the filing of affidavits in support of replies. Nevertheless, to the extent required, Kentucky Power seeks leave to file

Wherefore, to the extent required, Kentucky Power Company respectfully requests that it be granted leave to file its reply and accompanying affidavit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark R. Overstreet', written over a horizontal line.

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COUNSEL FOR KENTUCKY POWER  
COMPANY

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<sup>2</sup> *Department of Revenue v. Wade*, 379 S.W.3d 134, 138 (Ky. 2012).

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served by first class mail, postage prepaid, upon:

Michael L. Kurtz  
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36 East Seventh Street, Suite 1510  
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on this the 1<sup>st</sup> day of May, 2013.

A handwritten signature in black ink, appearing to read 'M R Overstreet', written over a horizontal line.

Mark R. Overstreet