

FILED
JUL 25 2011
PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES)
COMPANY FOR CERTIFICATES OF)
PUBLIC CONVENIENCE AND NECESSITY) CASE NO. 2011-00161
AND APPROVAL OF ITS 2011 COMPLIANCE)
PLAN FOR RECOVERY BY)
ENVIRONMENTAL SURCHARGE)

**PETITION OF KENTUCKY UTILITIES COMPANY FOR CONFIDENTIAL
PROTECTION FOR RESPONSES TO CERTAIN DATA REQUESTS OF THE
COMMISSION STAFF**

Kentucky Utilities Company (“KU”) hereby petitions the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 7, and KRS 61.878(1)(c) to grant confidential protection for the items described herein, which KU seeks to provide in response to Commission Staff’s First Information Request to KU Nos. 12; 28(a); 32(f); 32(i); 37 and 44 and 46(b). In support of this Petition, KU states as follows:

Confidential or Proprietary Commercial Information (KRS 61.878(1)(c))

1. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for the exemption and, therefore, maintain the confidentiality of the information, a party must establish that the material is of a kind generally recognized to be confidential or proprietary, and the disclosure of which would permit an unfair commercial advantage to competitors of the party seeking confidentiality.

2. Staff Request No. 12 asks whether KU’s compliance plan will result in any of KU’s plants being taken offline and the specific period of time the units will be out of service. In response, KU is providing a chart that sets forth the estimated time periods the units will be out of service, an essential factor in determining KU’s generating costs and need for power and

energy during those periods. Thus, disclosing the information sought in Request No. 12 would necessarily impair KU's ability to negotiate with prospective contractors and vendors -- now equipped to manipulate the price of power bid to KU to maximize revenues -- and would likewise arm KU's competitors with information with which they could erode KU's competitive position in the wholesale power market.

3. Staff Request No. 28(a) asks KU to provide a copy of the contract(s) with Black and Veatch. The contracts contain commercially sensitive and confidential information, including the agreed-upon labor rates for Black and Veatch's employees. Revealing publicly the labor rates would significantly compromise KU's ability to obtain contract labor at competitive rates, which would in turn financially harm KU's customers. Permitting other contractors to obtain this information would inure a significant commercial advantage to the companies at KU's and its customers' expense because third party contractors will be less likely to contract with KU at the least possible cost if their negotiated prices and other contract terms will be available to the public. Moreover, contractors would not favor public disclosure of concessions that they have made because those concessions would be used against them in future negotiations with other customers. They would therefore be more likely to insist on standard contract provisions and less willing to negotiate terms with KU in the future, thus jeopardizing KU's ability to obtain the best possible contracts, placing it at an additional competitive disadvantage.

4. Staff Request No. 32(f) asks KU to provide the last 10 years of major internal and minor outages including the major projects completed during each outage. Disclosure of this information would reveal KU's strategic decision making with regard to planned outages, which

would likewise arm KU's competitors with information with which they could erode KU's competitive position in the wholesale power market.

5. Staff Request No. 32(i) asks KU to provide any formal life assessments or extension reports. The requested information consists of cost benefit analyses performed by KU that necessarily reveal the business model KU uses – the procedure it follows and the factors and inputs it considers – in evaluating the economic viability of generation-related projects. Public disclosure of such information would thus afford KU's contractors, vendors and competitors access to, *inter alia*, cost and operational parameters material to KU, as well as insight into KU's contracting processes. Such access would necessarily impair KU's ability to negotiate with prospective contractors and vendors, and would likewise arm KU's competitors with information with which they could erode KU's competitive position in the wholesale market.

6. Staff Request No. 37 asks KU to provide any analyses that support the conclusion that purchased power would be more expensive. In response, KU is electronically providing projected fuel costs. The projected costs are highly commercially sensitive because, if publicly disclosed, fuel suppliers could manipulate fuel prices in order to maximize its revenues based upon the projected costs KU anticipates will be required. This would result in a detrimental and undue erosion of KU's ability to obtain fuel at competitive prices. This would constitute an unfair disadvantage to KU.

7. Staff Request No. 44 asks KU to provide fuel forecasts for coal and natural gas. As with Staff Request No. 37, the projected costs are highly commercially sensitive because, if publicly disclosed, fuel suppliers could manipulate fuel prices in order to maximize its revenues based upon the projected costs KU anticipates will be required. Any impairment of its ability to obtain the most advantageous price possible from coal and natural suppliers will necessarily

erode KU's competitive position among other electric utilities with whom KU competes for new and relocating industrial customers and for off-system sales. This would constitute an unfair disadvantage to KU.

8. Staff Request No. 46(b) asks KU to provide inputs for all KU units, including, size, heat rate, outage projections, O&M costs, and other parameters used in the Strategist and PROSYM models. These inputs would arm KU's competitors with information with which they could erode KU's competitive position in the wholesale power market. Public disclosure of such information would thus afford KU's contractors, vendors and competitors access to cost and operational parameters material to KU, as well as insight into KU's contracting processes.

9. If the Commission disagrees with any of these requests for confidential protection, however, it must hold an evidentiary hearing (a) to protect KU's due process rights and (b) to supply with the Commission with a complete record to enable it to reach a decision with regard to this matter. Utility Regulatory Commission v. Kentucky Water Service Company, Inc., 642 S.W.2d 591, 592-94 (Ky. App. 1982).

10. The information for which KU is seeking confidential treatment is not known outside of KU, is not disseminated within KU except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information in the energy industry.

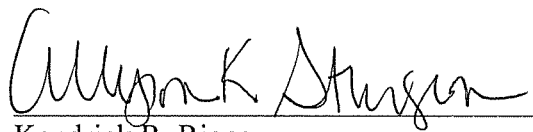
11. KU will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors and others with a legitimate interest in this information and as required by the Commission. In accordance with the provisions of 807 KAR 5:001, Section 7 and the Commission's June 28, 2011 Order in this proceeding, KU herewith files with the Commission

one copy of the above-discussed responses with the confidential information highlighted and fifteen (15) copies of its responses without the confidential information.¹

WHEREFORE, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection for the information at issue, or in the alternative, schedule and evidentiary hearing on all factual issues while maintaining the confidentiality of the information pending the outcome of the hearing.

Dated: July 25, 2011

Respectfully submitted,



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¹ KU has contemporaneously filed a Motion to Deviate seeking to provide certain data responses and attachments, including Staff Request No. 32(i) as an electronic attachment on compact disc. An original confidential copy of Appendix E and F is provided and the redacted copies of the entire report are provided on compact disc.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Response was served via U.S. mail, first-class, postage prepaid, this 25th day of July 2011 upon the following persons:

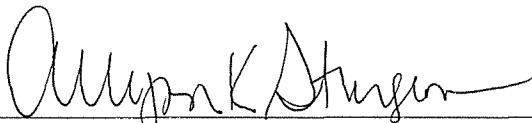
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