

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE)
COMMISSION OF THE APPLICATION OF THE)
FUEL ADJUSTMENT CLAUSE OF EAST) CASE NO. 94-459-C
KENTUCKY POWER COOPERATIVE, INC.)
FROM NOVEMBER 1, 1995 TO APRIL 30, 1996)

O R D E R

This matter arising upon petition of East Kentucky Power Cooperative, Inc. ("EKPC"), filed July 19, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of portions of its response to Item 20(a)(3) of the Commission's June 13, 1996 Order on the grounds that disclosure of the information is likely to cause competitive injury, and it appearing to this Commission as follows:

As part of its periodic examination of the application of the fuel adjustment clause by EKPC, the Commission by Order entered June 13, 1996, requested EKPC to file "all correspondence, internal memoranda and any other documents which discuss the Smith Station combustion turbine blade failure and recovery of replacement power costs." In response to the Commission's request, EKPC has provided information which it seeks to protect as confidential. The information sought to be protected includes engineering and operating information about the combustion turbine, information provided to EKPC on a confidential basis by the manufacturer of the combustion turbine, reports generated on behalf of EKPC to independently evaluate the condition of the combustion turbine units,

and purchase power quotes which were provided to EKPC on a confidential basis by utilities, power marketers and others.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party for whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and the likelihood of substantial injury if the information is disclosed.

While the petition filed by EKPC claims that disclosure of the information is likely to cause competitive injury, the petition neither identifies who would benefit from the information, nor does it demonstrate how such information would be of benefit to others. Therefore, the petition does not establish that the information is entitled to protection.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that,

1. The information filed in response to Item 20(a)(3) of the Commission's dated June 13, 1996 Order, which EKPC has petitioned to be withheld from public disclosure, is hereby denied.


2. The information sought to be protected shall be held and retained by this Commission as confidential and shall not be open for public inspection for a period of 20

days from the date of this Order to allow EKPC an opportunity to renew its petition in accordance with the requirements of the statute.

3. If at the expiration of the 20 day period no further action is taken by EKPC, the information shall, without further Orders herein, be placed in the public record.

Done at Frankfort, Kentucky, this 28th day of August, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director