

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS)
AND ELECTRIC COMPANY AND KENTUCKY)
UTILITIES COMPANY FOR CERTIFICATES) CASE NO. 2014-00002
OF PUBLIC CONVENIENCE AND NECESSITY)
FOR THE CONSTRUCTION OF A COMBINED)
CYCLE COMBUSTION TURBINE AT THE GREEN)
RIVER GENERATING STATION AND A SOLAR)
PHOTOVOLTAIC FACILITY AT THE E.W. BROWN)
GENERATING STATION)

**ATTORNEY GENERAL'S REPLY AND NOTICE OF PROTEST
TO JOINT APPLICANTS' CONFIDENTIAL RESPONSE TO BLUEGRASS
GENERATION COMPANY'S MOTION TO INTERVENE**

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and serves this Reply and notice of Protest to Louisville Gas and Electric Company's and Kentucky Utilities Company's ("Joint Applicants") Read-First Cover Letter Response (hereinafter "Cover Letter," copy attached as "Exhibit A") to Bluegrass Generation Company's Motion to Intervene in the instant matter. Pursuant to KRS 367.150(8), the Attorney General is granted the right and obligation to appear before regulatory bodies of the Commonwealth of Kentucky to represent consumers' interests.

The Joint Applicants' Cover Letter consists solely of a single-page letter indicating that: (a) a hard copy of the actual ten (10)-page response ("10-Page Response") was being provided to the Commission; and (b) that the actual 10-page Response pleading would not be filed into the public record "... because it contains

Confidential Information in its entirety that is the subject of the Joint Applicants' pending January 17, 2014 Petition for Confidential Treatment." [Emphasis added].

On February 21, 2014 counsel for Joint Applicants sent an electronic mail message containing an electronic copy of the actual 10-page Response. The Attorney General finds it striking that counsel for Joint Applicants seeks such broad protection for the 10-Page Response because the overwhelming majority of the 10-Page Response clearly, and unambiguously contains information which is of a non-confidential, public nature. While the Response does set forth certain items which are the subject of the Joint Applicants' Petition for Confidentiality filed on or about January 17, 2014, it is inappropriate and wholly contrary to the Commission's regulations and the Kentucky Open Records Act (KRS 61.870 et. seq.) to seek confidential protection for the entire document. Rather, the appropriate procedure would be to submit the actual 10-page Response with appropriate redactions to protect the information for which Joint Applicants seek confidential protection.

Pursuant to 807 KAR 5:001 § 13(1), all material on file with the commission shall be available for examination by the public unless the material is confidential. Per 807 KAR 5:001 § 13(2)(a), the proper procedure for determining confidentiality of material submitted in a case is to file a motion requesting confidential treatment of the material. According to 807 KAR 5:001 § 13(2)(a)(1-2), the requirements of the motion are twofold: (a) the motion must establish specific grounds pursuant to KRS 61.878 upon which the commission should classify that material as confidential; and (b) the motion must state

the time period in which the material should be treated as confidential and the reasons for the time period.

The Commission affords confidential protection upon an appropriate demonstration of need. The policy of the Commonwealth is that KRS 61.870 is to be strictly construed. In fact, KRS 61.871 states that this law is to be strictly construed even though such examination may cause inconvenience or embarrassment to public officials or others. Furthermore, 807 KAR § 13(3)(c) asserts that the burden of proof to show that the material falls within the exclusions from disclosure requirements enumerated in KRS 61.878 and to demonstrate the time period for which the material should be considered confidential shall be upon the moving party.

At this time, the Joint Applicants have not complied with 807 KAR 5:001 § 13 concerning confidential material. Joint Applicants' mere Cover Letter advises that the 10-Page Response is not being electronically filed because it contains confidential information in its entirety. However, Joint Applicants' assertions are patently incorrect. Simply stated, Joint Applicants have failed to meet their burden of proof that the entire 10-page Response is entitled to confidential protection - nor indeed can they because even a cursory review of this pleading indicates there is an abundance of information which is obviously public in nature.

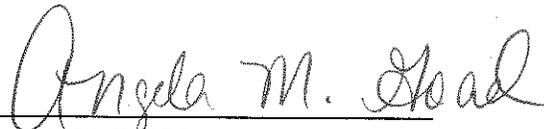
The Joint Applicants have no legal authority to arbitrarily determine that the entire 10-page Response is confidential. The question of whether or not the 10-Page Response contains portions of confidential information, or is confidential in its entirety, squarely falls within the Public Service Commission's purview. Moreover, the Public

Service Commission can only legally make a ruling upon the purported confidentiality of the Response once the Joint Applicants properly comply with procedural requirements.

WHEREFORE, the Attorney General respectfully objects to the Joint Applicants' filing for confidential protection of their 10-page Response since they failed to comply with the proper procedural requirements. The Attorney General believes that only the most liberal policy in regard to transparency should be exercised, and accordingly requests that the Joint Applicants be required to file a public version of the 10-page Response containing redactions where appropriate.

Respectfully submitted,

JACK CONWAY
ATTORNEY GENERAL

A handwritten signature in cursive script that reads "Angela M. Goad". The signature is written in dark ink and is positioned above a horizontal line.

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Certificate of Service and Filing

Counsel certifies that the Motion to Intervene is a true and accurate copy of the documents to be filed in paper medium to the Commission within two business days; that the electronic filing was transmitted to the Commission on February 24, 2014; and that no party has been excused from participation by electronic service.


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February 21, 2014

HAND DELIVERED

Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

Re: Case No. 2014-00002

Dear Mr. Derouen:

Enclosed please find and accept for filing the Joint Applicants' Response to Bluegrass Generation Company's February 14, 2014 Motion to Intervene ("Response"). This letter is being electronically filed, but the enclosed Response is not being electronically filed because it contains Confidential Information in its entirety that is the subject of the Joint Applicants' pending January 17, 2014 Petition for Confidential Treatment. I certify that the electronically filed documents are a true representation of the original paper documents being hand-delivered to the Commission on this date and that no party has been excused from electronic participation in this case.

As always, should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Stoll Keenon Ogden PLLC

Lindsey W. Ingram III

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ATTORNEY GENERAL'S EXHIBIT A