

COMMONWEALTH OF KENTUCKY

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BEFORE THE PUBLIC SERVICE COMMISSION

JAN 16 2004

PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES	)	
COMPANY FOR AN ADJUSTMENT OF THE	)	CASE NO. 2003-00434
ELECTRIC RATES, TERMS AND	)	
CONDITIONS	)	

**PETITION OF  
KENTUCKY UTILITIES COMPANY  
FOR CONFIDENTIAL PROTECTION**

Kentucky Utilities Company ("KU") petitions the Kentucky Public Service Commission ("Commission") pursuant to 807 KAR 5:001, Section 7 and KRS 61.878(1)(a), (k), and (l) and 61.878(1)(c)(1) to grant confidential protection to certain information relating to its federal and state income tax returns and to the compensation paid to certain professional employees, which information is being provided in response to Item Nos. 26(a)(8), 34(f), and 46 of the First Set of Data Requests of Commission Staff dated December 19, 2003 in the above-captioned proceedings. In support of this Petition, KU states as follows:

1. On November 24, 2003, KU served notice of its intent to file a rate application for a general adjustment of its electric base rates with the Commission. On December 19, 2003, the Commission Staff issued its First Set of Data Requests to KU.

2. The Kentucky Open Records Act exempts from disclosure certain information of a personal nature. KRS 61.878(1)(a). The Commission should accord confidential treatment to the information provided in response to Item Nos. 34(f) and 46, because its disclosure would invade the rights of privacy of the individuals involved and because its disclosure would permit an unfair commercial advantage to competitors of KU. The compensation of the individuals,

which is not otherwise publicly reported,<sup>1</sup> is personal and private information that should not be in the public realm. Clearly, the individual employees have the expectation that KU will maintain the confidentiality of their compensation information. Disclosure of such sensitive personal information would constitute an unwarranted invasion of personal privacy in contravention of KRS 61.878(1)(a). In addition, the information would place KU at a competitive disadvantage in attracting personnel at fair market value versus those companies that are not required to reveal publicly the compensation of their executive officers. KRS 61.878(1)(c)(1) protects such information from disclosure.

3. This information for which KU is seeking confidential treatment is not known outside of the Company, and it is not disseminated within KU except to those employees with a legitimate business need to know the information, such as employees within the Human Resources department.

4. This information for which KU seeks confidential protection in this case is similar to that provided to the Commission by KU in the past. The Commission granted confidential protection of the compensation paid to certain professional employees in a letter from the Executive Director of the Commission dated December 1, 2003 in *In the Matter of: An Investigation Pursuant to KRS 278.260 of the Earnings Sharing Mechanism Tariff of Kentucky Utilities Company*, Case No. 2003-000334.

5. In response to the Commission Staff's Data Request No. 26(a)(8), KU is also providing a copy of its federal and state income tax returns for the taxable year ended during the test year, including supporting schedules. KRS 61.878(1)(k) exempts from public disclosure "all public records or information the disclosure of which is prohibited by federal law or regulation."

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<sup>1</sup> KU is not requesting confidential treatment of compensation information relating to those executive officers whose compensation is reported in Securities and Exchange Commission filings.

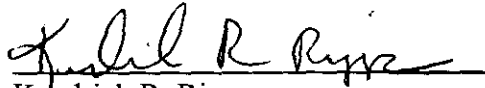
Under 26 U.S.C.A. §6103(a), state officials are prohibited from publicly disclosing any federal income tax return or its contents. Therefore, federal income tax returns fall within the exemption provided by KRS 61.878(1)(k) and are exempt from disclosure. See *In the Matter of: Application of Adjustment of Rates of Kentucky Power Company*, Case No. 91-066, Order of July 23, 1991, pp. 5-6. KRS 61.878(1)(l) exempts from the Kentucky Open Records Act “public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.” KRS 131.190(1) requires that all income tax information filed with the Kentucky Department of Revenue be treated in a confidential manner. Thus, state income tax returns are also confidential in nature and are protected from disclosure by KRS 61.878(1)(l). See *In the Matter of: Rate Adjustment of Western Kentucky Gas Company*, Case No. 90-013, Order of January 28, 1991, p. 2.

6. In accordance with the provisions of 807 KAR 5:001 Section 7, one copy of KU’s responses to the Commission Staff’s Data Request Nos. 26(a)(8), 34(f), and 46 with the confidential information highlighted and ten (10) copies of KU’s responses without the confidential information are herewith filed with the Commission.

**WHEREFORE**, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection, or in the alternative, schedule an evidentiary hearing on all factual issues.

Dated: January 16, 2004

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the following persons on the 16<sup>th</sup> day of January, 2004, United States mail, postage prepaid:

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