

421 West Main Street  
Post Office Box 634  
Frankfort, KY 40602-0634  
15021 223-3477  
15021 223-4124 Fax  
www.stites.com

January 21, 2005

Mark R. Overstreet  
(502) 209-1219  
(502) 223-4387 FAX  
moverstreet@stites.com

**HAND DELIVERED**

Beth O'Donnell  
Executive Director  
Public Service Commission of Kentucky  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602-0615

RECEIVED

JAN 21 2005

PUBLIC SERVICE  
COMMISSION

**RE: P.S.C. Case No. 2004-00463**

Dear Ms. O'Donnell:

Please find enclosed and accept for filing the original (which is tendered in connection with the accompanying Petition for Confidential Treatment) and six copies of Kentucky Power Company's Responses to the Commission's Data Requests in the above proceeding.

If you have any questions please do not hesitate to contact me.

Sincerely yours,

STITES & HARBISON, PLLC

Mark R. Overstreet

cc: Michael Kurtz  
Elizabeth E. Blackford

KE057:KE176:11973:1:FRANKFORT

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 21 2005

PUBLIC SERVICE  
COMMISSION

In the Matter of:

AN EXAMINATION OF THE )  
APPLICATION OF THE FUEL )  
ADJUSTMENT CLAUSE OF AMERICAN ) CASE NO. 2004-00463  
ELECTRIC POWER COMPANY FROM )  
NOVEMBER 1, 2002 TO OCTOBER 31, 2004 )

\* \* \* \* \*

**PETITION FOR CONFIDENTIAL TREATMENT**

Kentucky Power Company ("Kentucky Power") moves the Commission pursuant to 807 KAR 5:001, Section 7, for an Order granting confidential treatment to Kentucky Power's response to Information Request 24(b) as set forth in Appendix B of the Commission's Order dated December 13, 2004.

Pursuant to 807 KAR 5:001 an original of the responses for which confidential treatment is sought is filed as part of Kentucky Power's original filing in response to this data request. In addition, ten redacted copies of the subject Response are filed with Petition.

The Requests and Background.

Information Request 24(b) requires Kentucky Power to file and disclose:

". . . the number of vendors to whom the solicitation was sent, the number of vendors who responded, and the selected vendor. Provide the bid tabulation sheet or corresponding document that ranked the proposals. (This document should identify all vendors who made offers.) State the reasons for each selection."

Kentucky Power does not object to providing the information to the Commission, subject to an order according it confidential treatment.

Kentucky Power's bid solicitation is handled by the Fuel Procurement department in the Fuel, Emissions and Logistics group of American Electric Power Service Corporation. In procuring coal supplies for Kentucky Power, Fuel Procurement negotiates with a large number of potential vendors in a highly competitive industry. Kentucky Power must be able to negotiate and bargain in the most conducive and fair environment if a low-cost reliable coal supply is to be procured. If required to comply with Information Request 24(b) without confidential treatment, Kentucky Power's negotiating position would be compromised and the cost of coal to Kentucky Power's ratepayers could increase unnecessarily.

KRS 61.878(c)(1)(b) excludes from the Open Records Act:

"Records confidentially disclosed to an agency, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records, and which are compiled and maintained . . . in conjunction with the regulation of commercial enterprise . . ."

This exception applies to Kentucky Power's response to Information Request 24(b).

The Information Is Generally Recognized As Confidential and Proprietary.

First, the records to be filed with the Commission are "generally recognized as confidential or proprietary." The requests call not only for proposals made by the various coal bidders, but also for the internal evaluation of each bid. This bid information and evaluation is highly confidential, and confidentiality is critical to the bid process. Dissemination of the requested information, particularly the internal evaluation of each bid, is restricted by Kentucky Power and the Company takes all reasonable

measures to prevent its disclosure to the public as well as persons within the Company who do not have a need for the information.

Disclosure Of The Information Will Result In An Unfair Commercial Advantage.

Disclosure of the confidential information also will result in an unfair commercial advantage to competitors of Kentucky Power and its current coal suppliers. The bid responses and evaluations are especially sensitive, and their disclosure would be of some advantage to competitor coal suppliers; thus, disclosure would work a disadvantage to Kentucky Power and its ratepayers. For example, if a prospective coal supplier learns Kentucky Power was willing to pay \$55 per ton for a certain quality of coal, that supplier could resist lowering its price below \$55 per ton. The supplier thus would have an unfair bargaining advantage -- an advantage that would work to the detriment of Kentucky Power and its ratepayers. Additionally, prospective suppliers considering a bid of less than \$55 per ton would be inclined to increase their bid closer to \$55 per ton. Such a result is antithetical to the purpose of the bidding process and contrary to the goal of providing the lowest possible retail electric rates. Moreover, to the extent disclosure would result in higher coal prices, Kentucky Power's energy rates would increase. Accordingly, Kentucky Power would be placed at a competitive disadvantage vis-à-vis other energy suppliers, especially in the off-system sales market.

Equally important is the fact Kentucky Power is a regulated electric utility, with the Commission serving to protect the public interest in the absence of competition. If Kentucky Power's coal prices go up because of public disclosure of the requested information, both Kentucky Power and the regulatory process will suffer.

The Information Is Compiled And Maintained In Conjunction With The Commission's Regulation of Kentucky Power.

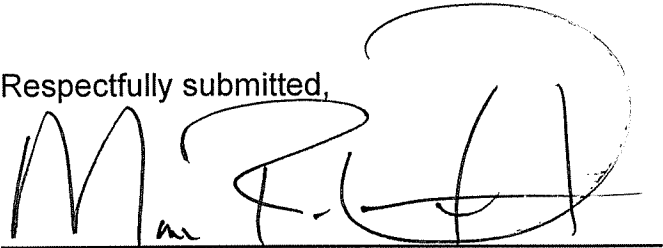
Finally, the records requested in Information Request 24(b) are compiled and maintained "in conjunction with the regulation of a commercial enterprise." Kentucky Power acknowledges that its coal purchase procedures are subject to Commission review, and that parties to this fuel clause proceeding should have access to the information sought through Information Request 24(b). Any filing, however, should be subject to a confidentiality Order and any party requesting such information should enter into a confidentiality agreement. If such an agreement cannot be reached, the information should be subject to a Protective Order issued pursuant to 807 KAR 5:001, Section 7(5)(b).

In further support of this Motion for Confidential Treatment, Kentucky Power cites and incorporates by reference the Company's similar Motion and Pleadings in the prior Fuel Adjustment Clause proceedings, such as Case Nos. 2004-00211, 2003-00453, 2000-495-B, 98-562-A and 98-562-B. Kentucky Power further states that the Commission has not denied confidential treatment to similar information in prior fuel clause proceedings.

Wherefore, Kentucky Power Company respectfully requests the Commission to enter an Order:

1. According confidential status to and withholding from public inspection Kentucky Power's responses to Data Request 24(b); and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,

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

Mark R. Overstreet  
STITES & HARBISON PLLC  
421 West Main Street  
P. O. Box 634  
Frankfort, Kentucky 40602-0634  
Telephone: (502) 223-3477

COUNSEL FOR KENTUCKY POWER  
COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing (along with redacted copies of the information for which confidential treatment is sought) was served by first class mail, postage prepaid, upon the following parties of record, this 21<sup>st</sup> day of January, 2005.

Michael L. Kurtz, Esq.  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati, OH 45202

Elizabeth E. Blackford, Esq.  
Assistant Attorney General  
Office for Rate Intervention  
P. O. Box 2000  
Frankfort, KY 40602-2000

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

Mark R. Overstreet

KE057:KE176.11895:2:FRANKFORT





TERM RESPONSES

Company	Product	Term	Price	TPM	Btu	SO2 #	Ash %	Synfuel/Coal	Shipping Point	Comments
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**CONFIDENTIAL**