

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

AN EXAMINATION OF THE APPLICATION)
OF THE FUEL ADJUSTMENT CLAUSE OF)
KENTUCKY UTILITIES COMPANY FROM) CASE NO. 2007-00278
NOVEMBER 1, 2006 THROUGH APRIL 30, 2007)

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

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 of a report by Weir International, Inc., provided as part of a supplemental response to Post-Hearing Data Request No. 1. In support of this Petition, KU states as follows:

1. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of the party seeking confidentiality.

2. The data request asked KU to provide a copy of a report being prepared by Weir International, Inc. (“Weir Report”). The Weir Report addresses the reasonableness of the increases in the price of coal KU is paying its supplier CONSOL. CONSOL claimed the increases were appropriate because they were necessary to comply with the federal Mine Improvement and New Emergency Response Act of 2006 (MINER Act), which became law on June 15, 2006, and were permissible under the terms of the coal purchase agreement with KU.

3. The Weir Report merits confidential protection because KU is contractually obligated under contract with CONSOL and Weir not to produce the report except under an

agreement for confidential treatment. Moreover, revealing the study in the public record will harm KU by providing to its competitors the methods and sources used to assess and evaluate claims by coal vendors on this type of issue. This kind of information would provide an unfair advantage to KU's competitors in the wholesale power market. The cost of fuel is an important cost of energy power sales and public disclosure of how KU evaluates contractual claims with its coal vendors on the price of coal would provide commercially sensitive information to other participants in the wholesale power market.


4. If the Commission disagrees, however, it must hold an evidentiary hearing (a) to protect the due process rights of KU, CONSOL, and Weir, and (b) to supply 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., Ky. App., 642 S.W.2d 591, 592-94 (1982).

5. KU will disclose the confidential information, pursuant to a protective 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, one copy of the confidential information contained in the Weir Report is highlighted on yellow paper and ten (10) copies of the Weir Report without the confidential information is herewith filed with the Commission.

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

Dated: November 6, 2007

Respectfully submitted,



Kendrick R. Riggs
W. Duncan Crosby III
Stoll Keenon Ogden PLLC
2000 PNC Plaza, 500 West Jefferson Street
Louisville, Kentucky 40202-2828
Telephone: (502) 333-6000

Allyson K. Sturgeon
Senior Corporate Counsel
E.ON U.S. LLC
220 West Main Street
Louisville, Kentucky 40202
Telephone: (502) 627-2088


Counsel for Kentucky Utilities Company

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Petition for Confidential Protection was served via U.S. mail, first-class, postage prepaid, this 6th day of November 2007, upon the following persons:

Dennis G. Howard II
Assistant Attorney General
Office of the Kentucky Attorney General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601-8204

Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, Ohio 45202



Counsel for Kentucky Utilities Company