

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
MAR 28 2008  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

AN EXAMINATION OF THE )  
APPLICATION OF THE FUEL )  
ADJUSTMENT CLAUSE OF AMERICAN )  
ELECTRIC POWER COMPANY FROM )  
May 1, 2007 THROUGH OCTOBER )  
31, 2007 )

CASE NO. 2007-00522

\* \* \* \* \*

**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 Staff’s Supplemental Hearing Information Request 2. The information request was propounded at the March 18, 2008 hearing in this matter.

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 Information request. In addition, six redacted copies of the subject Response are filed with Petition.

A. The Request And The Statutory Standard.

Staff Supplemental Hearing Information Request 2 requires Kentucky Power to file and disclose:

Please refer to PSC 1st Set, Item No. 17b. The Company’s response indicates it is providing “the bid evaluation that identifies proposal ranking and the selected vendor.” That information does not appear to have been provided. Please indicate where the information is provided in the response or provide, as requested in the Data Request, “the bid tabulation

sheet or corresponding document that ranked the proposals...[and] the reasons for each selection.

Kentucky Power does not object to providing to the Commission the data sought in Staff Supplemental Hearing Information Request 2.

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

Upon and after July 15, 1992, records confidentially disclosed to an agency or required to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

This exception applies to Kentucky Power's response to Staff Supplemental Hearing Information Request 2.

B. Kentucky Power's Fuel Procurement Practices And The Competitive Fuel and Energy Markets.

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 ("AEPSC"). In negotiating fuel supply and transportation agreements, AEPSC seeks to obtain the lowest reasonable delivered cost of fuel for the Company's customers. Fuel and transportation suppliers, on the other hand, are interested in obtaining the highest price possible for their commodity or service. Making future pricing, or company strategy with regards to fuel acquisition or other competitively sensitive information available to the suppliers with which the Company is negotiating compromises AEPSC's ability to obtain the lowest reasonable cost of fuel for customers.

C. 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 request calls 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 information for which confidential treatment is being requested is restricted by Kentucky Power and AEPSC, and the Company and AEPSC take 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.

In further support of this Request for Confidential Treatment for the data sought by Information Request No. 17(b), Kentucky Power incorporates by reference the Company's similar Motion and Pleadings in prior Fuel Adjustment Clause proceedings, such as Case Nos. 2007-00276; 2006-00507; 2004-00463; 2004-00211, 2003-00453, 2000-495-B, 98-562-A and 98-562-B. More particularly, by letter dated February 27, 2008 in this case, Staff accorded confidential treatment to a version of the same information for which confidential treatment is sought. A copy of the letter is attached to this Petition. Kentucky Power further states that the Commission has not denied confidential treatment to similar information in prior fuel clause proceedings.

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

In general, the disclosure of the confidential information also will result in an unfair commercial advantage to competitors of Kentucky Power and its coal suppliers. For example, if a prospective coal supplier learns through review of AEPSC's analysis of responses to Kentucky Power's coal solicitation the Company was willing to pay \$25

per ton for a certain quality and quantity of coal, that supplier could resist lowering its price below \$25 per ton. Similarly, and by example only, knowledge that Kentucky Power currently is paying \$22 to \$27 per ton under contracts executed after December 31, 2007 may yield a similar result. In either case, a supplier will gain an unfair bargaining advantage – an advantage that would work to the detriment of Kentucky Power and its ratepayers. Additionally, in either case prospective suppliers considering a bid of less than \$25 per ton would be inclined to increase their bid closer to \$25 per ton. Such a result is antithetical to the purpose of the bidding process and contrary to the goal of providing the lowest reasonable 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 commercially sensitive information, Kentucky Power, its customers and the regulatory process will suffer.

E. The Information Is Required To Be Disclosed To An Agency.

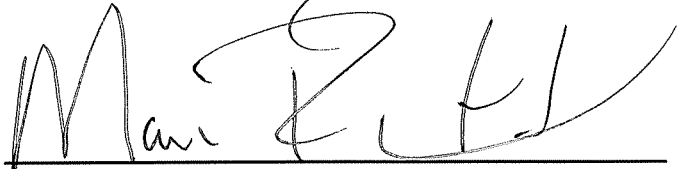
Finally, the records requested in Staff Supplemental Hearing Information Request 2 are by the terms of the Staff's Information Request required to be disclosed to the Commission, a "public agency" as that term is defined at KRS 61.870(1). Kentucky Power acknowledges its coal purchase procedures are subject to Commission review, and that parties to this fuel clause proceeding should have access to the

information sought through Staff Supplemental Hearing Information Request 2. 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).

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 Staff Supplemental Hearing Information Request 2; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



Mark R. Overstreet  
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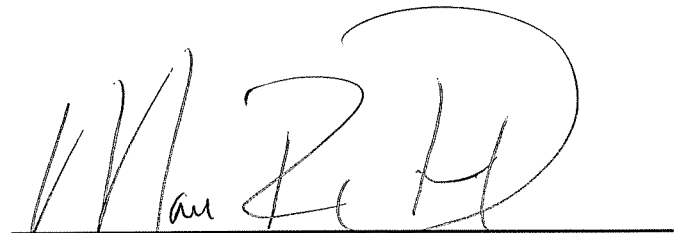
COUNSEL FOR KENTUCKY POWER  
COMPANY

**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 28<sup>th</sup> day of March, 2008.

Michael L. Kurtz  
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Mark David Goss  
Chairman

John W. Clay  
Vice Chairman

Caroline Pitt Clark  
Commissioner

February 27, 2008

Hon. Mark R. Overstreet  
STITES & HARBISON, PLLC  
421 West Main Street  
P.O. Box 634  
Frankfort, Kentucky 40602-0634

Re: Kentucky Power Company Petition for Confidentiality  
PSC Case No. 2007-00522

Dear Mr. Overstreet:

The Public Service Commission has received Kentucky Power Company's Petition for confidential treatment of certain information in its Response to Item 17(b) of the Commission's Order of January 23, 2008. This information is identified in the Petition as pertaining to the amount of vendors, bid tabulation sheets, ranking proposals, bid solicitation and evaluations of bids.

Based upon a review of the information, I have determined that it is entitled to the protection requested on the grounds relied upon in the Petition and should be withheld from public inspection.

If the information becomes publicly available or no longer warrants confidential treatment, Kentucky Power Company is required by 807 KAR 5:001, Section 7(9)(a), to inform the Commission so that the information may be placed in the public record.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Beth O'Donnell".

Beth O'Donnell,  
Executive Director

kg/

cc: Parties of Record

KentuckyUnbridledSpirit.com



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