

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY POWER)
COMPANY FOR A GENERAL ADJUSTMENT) Case No. 2009-00459
OF ELECTRIC RATES)

RECEIVED

MAR 05 2010

PUBLIC SERVICE
COMMISSION

ATTORNEY GENERAL'S MOTION TO DISCLOSE ALLEGED CONFIDENTIAL
INFORMATION AND MEMORANDUM IN SUPPORT THEREOF

PUBLIC REDACTED VERSION

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and in response to Kentucky Power Company's Motion for Confidential Treatment, hereby files the following Motion To Disclose Alleged Confidential Information And Memorandum In Support Thereof.

In support of his Motion, the Attorney General states that on or about February 12, 2009, pursuant to the Commission's procedural schedule in the instant matter the Attorney General filed his Initial Data Requests to Petitioner, Kentucky Power Company ["KP"]. Those data requests, and KP's responses thereto are now filed of record. KP has subsequently filed its "Motion for Confidential Treatment" pertaining in part to its responses to AG 1-47 through AG 1-51.

At issue is AG 1-47, which requested: "Please provide copies of all presentations made to rating agencies and/or investment firms by KP between

January 1, 2008 and the present.” In response thereto, KP produced a document bearing a notation reading “Confidential,” said document being a presentation made by KP’s corporate parent entity, American Electric Power, to Standard & Poor’s. Said document bears the date July 31, 2008, and is entitled “2008 Ratings Update.”

On “page 6 of 39” of that document (entitled “Regulatory Plan – KPCo”)[hereinafter: “KP Regulatory Plan Document”], KP states that in its 2010 rate case (the instant case), the company would seek \$53 million in increased revenues.¹ This stands in sharp contrast to the application which KP actually filed in the instant matter, which states the company seeks \$123.6 million in additional revenues. Since the information pertaining to the \$53 million figure is not highlighted, it appears KP is not claiming confidential treatment for this information. This is supported by the fact that a slightly larger version of the additional revenue KP is apparently *actually* seeking (\$55 million) in the instant rate case appears in yet another non-confidential document filed in response to AG 1-51, p. 74 of 79. That document is entitled “American Electric Power Key Forecast Assumptions December 2009.” Thus, within only a few weeks of the filing of its application in the instant matter, KP and its parent AEP were telling Wall Street one thing, while asking the public, this Commission and the

¹ It should be noted that p.6 of the KP Regulatory Plan Document was also produced in the public record. The reference to \$53 million being sought in the instant proceeding was **not redacted**. That document did, however, contain some redacted information which the Attorney General seeks to have disclosed in the public record, and which is discussed in greater detail, *infra*.

intervenors to believe it needed more than twice that amount in new revenues. This information is now a matter of public record.

However, the company is seeking to keep confidential the fact that apparently as soon as this case is concluded, it already has plans to file [REDACTED] [REDACTED] apparently immediately following the conclusion of the instant matter. In that [REDACTED], the company states it will apparently seek [REDACTED]. This information is found in the KP Regulatory Plan Document, p. 6 of 39.

KP, citing KRS 61.878(1)(c)(1) and 807 KAR 5:001 § 7, seeks confidential treatment for this information. That statute provides that confidential treatment shall be extended if disclosure would “. . . permit an unfair commercial advantage to competitors of the entity that disclosed the records.” KP, which has a guaranteed service territory and has no competitors, has failed to identify the existence of even any potential competitors. Moreover, even if KP can identify any such competitors, it has failed to identify how disclosure would permit an unfair advantage to any such alleged potential competitor.

The most alleged “harm” that KP could suffer if disclosure was allowed would be public embarrassment in the company’s seeking [REDACTED] [REDACTED] immediately on the heels of the closing of [REDACTED]. KP’s ratepayers have the right to know the utility’s plans, so that they can make appropriate plans now to address the issues and potential [REDACTED] that will impact them in the very near future. Neither KRS 61.878(1)(c)(1) nor 807

KAR 5:001 § 7 protect KP from any such potential embarrassment. Moreover, the greater good to its ratepayers in this regard far outweighs any embarrassment that KP might suffer.

WHEREFORE, the Attorney General, without waiving his right to contest further documents KP deems confidential, respectfully requests that the Commission order the information pertaining to KP's intent [REDACTED] [REDACTED] immediately after the conclusion of the instant case be deemed non-confidential and disclosed.

Respectfully submitted,
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Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

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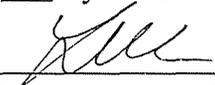
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