

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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**PUBLIC SERVICE
COMMISSION**

In the Matter of:

**AN EXAMINATION OF THE
APPLICATION OF THE FUEL
ADJUSTMENT CLAUSE OF KENTUCKY
UTILITIES COMPANY FROM
NOVEMBER 1, 2008 THROUGH OCTOBER
31, 2010**

)
)
) **CASE NO.**
) **2010-00492**
)
)

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

Kentucky Utilities Company (“KU”) respectfully petitions the Commission pursuant to 807 KAR 5:001 § 7 to classify as confidential and protect from public disclosure certain information provided by KU, pursuant to 807 KAR 5:001, Section 7, respectfully petitions the Commission to classify as confidential and protect from public disclosure certain information provided by KU in response to Question Nos. 6, 9, 21, 24, and 25 of the Commission’s data requests, as contained in Appendix B of the Commission’s Order dated January 26, 2011. The information for which KU requests confidential treatment (“Confidential Information”) pertains to forecasted sales revenues (No. 6), planned maintenance schedules (No. 9), a supplemental report from Weir International, Inc. (“Weir Report”), which concerns one of KU’s coal supplier’s cost of complying with the Mine Improvement and New Emergency Response Act of 2006 (“MINER Act”) and a copy of two settlement agreements and releases with two of KU’s coal suppliers (for Question No. 21(a)), and bid analysis information (Nos. 24 and 25). In support of this Motion, KU notes that the Commission has treated this information as confidential in KU’s recent six-month and two-year fuel adjustment clause review proceedings.

In further support of this Motion, KU states as follows:

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure information confidentially disclosed to it to the extent that open disclosure would permit an unfair commercial advantage to competitors of the entity disclosing the information to the Commission. *See* KRS 61.878(1)(c). Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. Public disclosure of projected sales revenues, which are driven by and based on projected power prices, would afford KU's competitors a distinct competitive advantage in bidding for and securing new bulk power loads, as competitors could use KU's projected prices to outbid KU for these loads. Thus, public disclosure of the information requested in Question No. 6 would afford an undue preference to KU's wholesale power purchasers and sellers, as the latter would enjoy an obvious advantage in any contractual negotiation to the extent they knew the Company's forward price projections. As noted above, the Commission has treated such information as confidential in the past.

3. Similarly, public disclosure of information regarding KU's plant maintenance schedules would lay bare critical "down time" information, an essential factor in determining KU's generating costs and need for power and energy during those periods. Thus, disclosing the information requested in Question No. 9 would necessarily impair KU's ability to negotiate with prospective contractors and vendors -- now equipped to manipulate the price of power bid to KU to maximize revenues -- and would likewise arm KU's competitors with information with which they could erode KU's competitive position in the wholesale power market. As noted above, the Commission has treated such information as confidential in the past.

4. Disclosure of the Weir Report and Settlement Agreements and Releases could damage KU's competitive position and business interests. The Weir Report and Settlement Agreements and Releases consider and analyze the costs KU's coal suppliers incur to comply with the MINER Act, which in turn affects the coal price increases KU is willing to pay its coal suppliers for their claimed compliance costs. If the Commission grants public access to the information requested in Question No. 21(a), KU's current and potential coal suppliers could manipulate their bids to the detriment of KU and its ratepayers by tailoring bids to correspond to and comport with KU's MINER compliance cost evaluation criteria and process.

5. Disclosure of the factors underlying KU's bid analysis/selection process would likewise damage KU's competitive position and business interests. This information reveals the business model the Company uses -- the procedure it follows and the factors/inputs it considers - - in evaluating bids for coal supply. If the Commission grants public access to the information requested in Question Nos. 24 and 25, potential bidders could manipulate the bid solicitation process to the detriment of KU and its ratepayers by tailoring bids to correspond to and comport with KU's bidding criteria and process. As noted above, the Commission has treated such information as confidential in the past.

6. The information for which KU is seeking confidential treatment is not known outside of KU, is not disseminated within KU except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information in the energy industry.

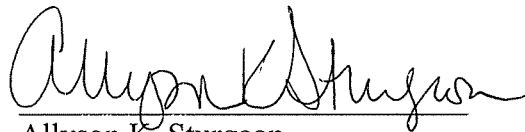
7. KU does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, to intervenors with legitimate interests in reviewing the same for the purpose of participating in this case.

8. In accordance with the provisions of 807 KAR 5:001, Section 7, KU is filing with the Commission one copy of the Confidential Information highlighted and ten (10) copies without the Confidential Information.

WHEREFORE, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection to the information designated as confidential for a period of five years from the date of filing the same.

Dated: February 14, 2011

Respectfully submitted,



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