

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

AN EXAMINATION OF THE APPLICATION OF )  
THE FUEL ADJUSTMENT CLAUSE OF )  
KENTUCKY POWER COMPANY FROM ) CASE NO. 2011-00245  
NOVEMBER 1, 2010 THROUGH APRIL 30, )  
2011 )

\* \* \* \* \*

**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 Data Request No. 19(b).

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 the Information requests. In addition, ten redacted copies of the subject Response are filed with the remaining Responses to the Data Requests.

A. The Request And The Statutory Standard.

Staff Data Request 19(b) requires Kentucky Power to file and disclose:

For each solicitation [for coal purchases issued during the period November 1, 2010 to April 30, 2011], state 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 ranks the proposals. (This document shall identify all vendors who made offers.) State the reasons for each selection. For each lowest cost bid not selected, explain why the bid was not selected.

Kentucky Power does not object to providing to the Commission the data sought in Staff Data Request 19(b). However, the data should be afforded confidential treatment.

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 Data Request 19(b).

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 personnel 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 Data Request 19(b), Kentucky Power incorporates by reference the Company's similar Motion and Pleadings in prior Fuel Adjustment Clause proceedings, such as Case Nos. 2010-00490; 2010-00264; 2008-00518; 2007-00522; 2007-00276; 2006-00507; 2004-00463; 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 Kentucky Power 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 as a result of the solicitations issued between November 1, 2010 and April 30, 2011 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.

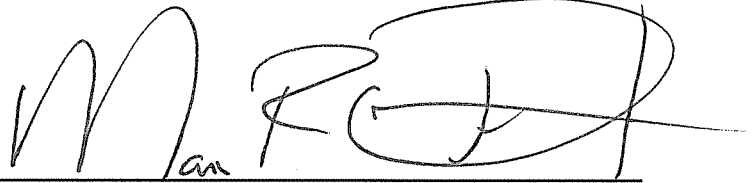
E. The Information Is Required To Be Disclosed To An Agency.

Finally, the records requested in Staff Data Request 19(b) are by the terms of the Data 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 Data Request 19(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).

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 Data Request 19(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 'Mark R. Overstreet', written over a horizontal line.

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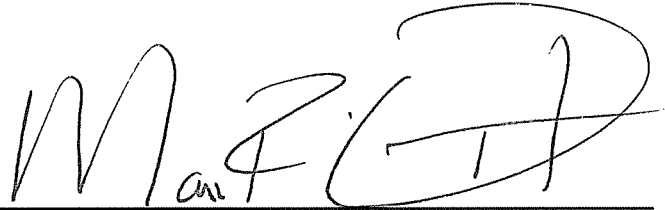
COUNSEL FOR KENTUCKY POWER  
COMPANY

**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 12<sup>th</sup> day of September, 2011.

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A handwritten signature in black ink, appearing to read 'Mark R. Overstreet', written over a horizontal line. The signature is stylized and cursive.

Mark R. Overstreet