

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

In the Matter of:

JOINT APPLICATION PURSUANT TO 1994 )  
HOUSE BILL NO. 501 FOR THE APPROVAL OF )  
KENTUCKY POWER COMPANY )  
COLLABORATIVE DEMAND-SIDE MANAGEMENT )  
PROGRAMS AND FOR AUTHORITY TO )  
IMPLEMENT A TARIFF TO RECOVER COSTS, ) CASE NO. 2012-00051  
NET LOST REVENUES, AND RECEIVE )  
INCENTIVES ASSOCIATED WITH THE )  
IMPLEMENTATION OF THE KENTUCKY POWER )  
COMPANY COLLABORATIVE DEMAND-SIDE )  
MANAGEMENT PROGRAMS )

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**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 Data Request Numbers 1 and 7 from the Commission Staff’s Second Request for Information to Kentucky Power Company issued on April 13, 2012.

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 Requests And The Statutory Standard.

Staff Data Request 1 requires Kentucky Power to file and disclose:

Refer to the Demand-Side Management (“DSM”) Collaborative Status Report (“2011 Status Report”), page 8. Provide the names of the vendors

who received the \$9,222 for Total Evaluation and \$435,286 for Equipment/Vendor.

Staff Data Request 7 requires Kentucky Power to file and disclose:

Refer to the Status Report, page 14. Provide the names of the vendors who received the \$6,068 for Total Evaluation and \$173,712 for Equipment/Vendor.

Kentucky Power does not object to providing to the Commission the data sought in Staff Data Requests 1 and 7. 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 Requests 1 and 7.

B. The Nature of Kentucky Power's Injury that Will Result from Disclosure of the Confidential Information.

Service contracts between Kentucky Power and its program implementation contractors and vendors are considered confidential information by the parties to those contracts. Confidentiality provisions are generally included in the contracts that preclude Kentucky Power from making the information sought by the Staff publicly available. Disclosure of the responses will place both the vendor names and pricing information together in the public domain. This will allow competitors of the current vendors to reverse engineer the bids made by the current bidders. The competitors can then use that information to their competitive advantage in future dealings with Kentucky Power and other AEP operating companies that have implemented programs similar to the Kentucky Power program at issue.

Public disclosure of the confidential information concerning vendor pricing will lead to a decrease in confidence for potential vendors that otherwise would work with Kentucky Power on current and future projects. The vendors take steps to safeguard the confidentiality of the information at issue and public disclosure will pose problems for them to the extent they offer similar services to other customers at different prices. A reduction of qualified vendors bidding on Kentucky Power projects could reasonably be expected to occur going forward since vendors will know that their pricing to Kentucky Power will not be afforded confidential protection. This places Kentucky Power at a competitive disadvantage vis-à-vis other utilities.

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 Staff's requests call for sensitive pricing information that 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. 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. Moreover, confidentiality requirements are included in the contracts the Company has entered into with most, if not all, of its program implementation contractors and vendors. Indeed, the Commission afforded confidential treatment to similar information in an order entered on October 20, 2011 in *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Review, Modification, and Continuation of Existing, and Addition of New Demand-Side Management and Energy Efficiency Programs*, Case No. 2011-00134.

D. Disclosure Of The Information Will Result In An Unfair Commercial Disadvantage for Kentucky Power.

In general, the disclosure of the confidential information will place Kentucky Power at an unfair commercial disadvantage. For example, a current vendor, that likely is the lowest cost bidder with a successful solution, could reasonably be expected not to bid on future Kentucky Power Requests for Proposals (“RFPs”) because they will know that pricing information furnished to Kentucky Power will be made public. Such decisions from current vendors will lead to higher pricing for similar services in the future.

Moreover, prospective vendors likely will be able to use the confidential information to determine the pricing provided by current vendors. Prospective vendors will be able to use the confidential information to their advantage in future RFPs with Kentucky Power and other AEP operating companies. For example, if a prospective vendor learns through review of the confidential information that the Company was willing to pay \$50,000 for a particular service, that prospective vendor could resist lowering its price for the same service below \$50,000 and would be inclined to increase their bid closer to \$50,000. The prospective vendor will gain an unfair bargaining advantage – an advantage that would work to the detriment of Kentucky Power and its ratepayers. 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 of the confidential information would result in higher prices for the services at issue, 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 costs increase 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 Requests 1 and 7 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 the procurement procedures at issue are subject to Commission review, and that parties to this proceeding should have access to the information sought through Staff Data Requests 1 and 7. 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 Requests 1 and 7; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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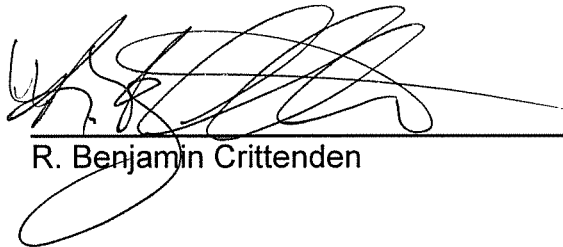
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COUNSEL FOR KENTUCKY POWER  
COMPANY

**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 27th day of April, 2012.

Jennifer B. Hans  
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R. Benjamin Crittenden