

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In The Matter Of:

The Application Of Kentucky Power Company For:)
(1) The Approval Of The Terms And Conditions Of The)
Renewable Energy Purchase Agreement For Biomass)
Energy Resources Between The Company And) Case No. 2013-00144
ecoPower Generation-Hazard LLC; (2) Authorization)
To Enter Into The Agreement; (3) The Grant Of Certain)
Declaratory Relief; And (4) The Grant Of All)
Other Required Approvals and Relief)

Petition For Confidential Treatment

Kentucky Power Company moves the Public Service Commission of Kentucky pursuant to 807 KAR 5:001, Section 13(2), for an Order granting confidential treatment to the identified portions of its responses to the first set of data requests from the Commission Staff and Kentucky Industrial Utility Customers, Inc. (“KIUC”). Specifically, Kentucky Power seeks confidential treatment of its responses to Commission Staff Data Request 1-4 and KIUC Data Requests 1-4, 1-5, 1-14, 1-24, 1-32, 1-38, and 1-43.

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of the responses with the confidential portions highlighted in yellow. Kentucky Power is also filing redacted versions of the same. Kentucky Power will notify the Commission when it determines the information for which confidential treatment is sought is no longer confidential.

A. The Requests And The Statutory Standard.

Except as set forth below, Kentucky Power does not object to filing the identified information for which it is seeking confidential treatment, but requests that the identified portions of the responses be excluded from the public record and public disclosure.

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 the following information for which Kentucky Power is seeking confidential treatment:

(a) **Commission Staff 1-4**

Kentucky Power seeks confidential treatment for the identified portions of Attachment 1 to the Company's response to data request Commission Staff 1-4. This identified portions of the document are considered confidential by PJM and includes information, including pricing information, that form the bases for prices in the Renewable Energy Purchase Agreement ("REPA") at issue in this case and submitted by ecoPower as part of its transmission impact analysis. As described below in Section B, disclosure of the identified portions of the feasibility study report will result in harm to the Company, or its affiliates, in future negotiations by giving an insight into key pricing components of this REPA.

(b) **KIUC 1-4**

Kentucky Power seeks confidential treatment for the identified portions of the document provided as Attachment 1 to the Company's response to data request KIUC 1-4. This document includes information regarding the Company's negotiating strategies for the REPA as well as project specific details and other REPA terms. As described below in Section B, disclosure of

this information could put Kentucky Power, or its affiliates, at a competitive disadvantage in future contract negotiations to the detriment of the Company and its customers.

(c) **KIUC 1-5**

Kentucky Power seeks confidential treatment for the identified portions of the document provided as Attachment 1 to the Company's response to data request KIUC 1-5. This document includes information regarding the Company's negotiating strategies for the REPA as well as other REPA terms. As described below in Section B, disclosure of this information could put Kentucky Power, or its affiliates, at a competitive disadvantage in future contract negotiations to the detriment of the Company and its customers.

(d) **KIUC 1-14**

Kentucky Power seeks confidential treatment for the identified portions of the document provided as Attachment 1 and the entirety of the document provided as Attachment 2 to the Company's response to data request KIUC 1-14. These documents include information, including pricing information, related to the REPA at issue in this case. As described below in Section B, disclosure of this information could put Kentucky Power, or its affiliates, at a competitive disadvantage in future contract negotiations to the detriment of the Company and its customers.

(e) **KIUC 1-24**

Kentucky Power seeks confidential treatment for the entirety of the document provided as Attachment 1 to the Company's response to data request KIUC 1-24. This document includes information directly related to the pricing information contained in the REPA at issue in this matter. As described below in Section B, disclosure of this information could put Kentucky

Power, or its affiliates, at a competitive disadvantage in future contract negotiations to the detriment of the Company and its customers.

(f) **KIUC 1-32**

Kentucky Power seeks confidential treatment for the spreadsheet provided electronically as Exhibit RKW1 to the Company's response to data request KIUC 1-32. This documents include information, including pricing information, derived from the Renewable Energy Purchase Agreement ("REPA") at issue in this matter. As described below in Section B, disclosure of this information could put Kentucky Power, or its affiliates, at a competitive disadvantage in future contract negotiations to the detriment of the Company and its customers.

(g) **KIUC 1-38**

Kentucky Power seeks confidential treatment for the identified portions of the document provided as Attachment 1 to the Company's response to data request KIUC 1-38. This documents include information, including pricing information, derived from the Renewable Energy Purchase Agreement ("REPA") at issue in this matter. As described below in Section B, disclosure of this information could put Kentucky Power, or its affiliates, at a competitive disadvantage in future contract negotiations to the detriment of the Company and its customers.

(h) **KIUC 1-43**

Kentucky Power seeks confidential treatment for the entirety of the document provided as Attachment 1 to the Company's response to data request KIUC 1-43. This document includes information directly related to the pricing information contained in the REPA at issue in this matter. Disclosure of this information could put Kentucky Power, or its affiliates, at a competitive disadvantage in future contract negotiations to the detriment of the Company and its customers.

Kentucky Power seeks confidential treatment of the identified documents for the term of the REPA, a period of twenty years.

B. The Identified Information is Generally Recognized As Confidential and Proprietary and Public Disclosure Of It Will Result In An Unfair Commercial Advantage for Kentucky Power's Competitors.

The identified information required to be disclosed by Kentucky Power in response to the identified data requests is highly confidential. Dissemination of the information for which confidential treatment is being requested is restricted by Kentucky Power, its parent, AEP, and its affiliates. The Company, AEP, and its affiliates 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. The information is not disclosed to persons outside Kentucky Power, AEP, or its affiliates. Within those organizations, the information is available only upon a confidential need-to-know basis that does not extend beyond those employees with a legitimate business need to know and act upon the identified information.

The Company has already sought confidential treatment for the key terms (including pricing) of the REPA as part of the filing of the application in this case and has filed an affidavit of Jay Godfrey in support of that motion. Kentucky Power incorporates the affidavit of Jay Godfrey and its prior motion for confidential treatment into this Motion. As described in those documents, Kentucky Power and its affiliates may negotiate similar contracts with other suppliers in the future. If the prices and terms included in the REPA became publicly known or available, parties with which Kentucky Power and its affiliates may negotiate could use this knowledge to the detriment of Kentucky Power, its customers, and affiliates. Knowledge of these terms by other potential suppliers would establish certain benchmarks in future negotiations, thereby potentially increasing costs incurred by customers of Kentucky Power and

its affiliates. In other words, other suppliers would insist on the same or better terms as those negotiated in this purchase agreement.

Knowledge of the REPA provisions by potential power supply competitors also could enable suppliers to gain an unfair advantage in future competitive situations. For example, the Confidential Information could be used by other purchasers competing for such contracts to “cherry-pick” the most favorable contracts, thereby depriving Kentucky Power of the ability to obtain the most advantageous prices for its customers. In addition, the mere existence of certain terms, without regard to their specific provisions telegraphs the Company’s willingness in at least one instance to include certain contract provisions, and could be used by suppliers to seek similar provisions in any future purchased power agreement. As a result, in a limited number of instances, the public disclosure of article headings and table of contents entries, which would reveal the existence of a particular provision, can disadvantage the Company.

In sum, making the results of negotiations available to the suppliers with which the Company is negotiating, or may negotiate in the future, compromises the ability of AEPSC and Kentucky Power to obtain the lowest reasonable cost for its customers on the most favorable terms. As such, their disclosure will result in unfair commercial advantage to the Company’s competitors.

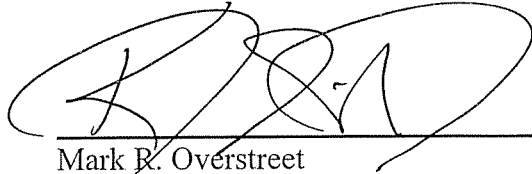
The confidential information should be kept confidential for the term of the REPA. Prior disclosure will adversely affect the Company’s ability to negotiate future purchased power agreements.

C. The Identified Information Is Required To Be Disclosed To An Agency.

The identified information is by the terms of the Data Requests and Commission practice required to be disclosed to the Commission. The Commission is a “public agency” as that term is defined at KRS 61.870(1). Any filing should be subject to a confidentiality order and any

party requesting such information should be required to enter into an appropriate confidentiality agreement.

Respectfully submitted,

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

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served as indicated below upon:


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on this the 24th day of May, 2013.



Kenneth J. Gish, Jr.