

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
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

CASE NO. 2013-00144

MOTION OF KENTUCKY POWER COMPANY
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 supplemental response being filed July 1, 2013 to the data requests from Kentucky Industrial Utility Customers, Inc. ("KIUC"). Specifically, Kentucky Power seeks confidential treatment of the identified portions of its supplemental response filed July 1, 2013 to KIUC Data Request 1-53. Kentucky Power's petition is supported by the Affidavit of Jay F. Godfrey ("Godfrey Affidavit"), which was filed as Exhibit A to the June 28, 2013 Motion for Confidential Treatment addressing the same confidential materials, and is incorporated by reference.

On June 28, 2013, Kentucky Power filed a supplemental response to KIUC Data Request 1-53 containing analyses performed by the Company of proposals it received in response to its March 28, 2013 RFP. The Company's July 1, 2013 Supplemental Response, which is the subject of this motion, is intended to supplement the June 28, 2013 filing. It includes the following confidential material in electronic format, with formulas intact and cells unprotected:

- (a) Exhibits SCW-1S and SCW 2-S;
- (b) Supporting Workpapers

The two exhibits and confidential workpapers are contained on a separate disc labeled "Confidential in Entirety." The June 28, 2013 filing provided Exhibits SCW-1S and SCW 2-S in paper form only. The Supporting Workpapers were not filed on June 28, 2013.

Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing the compact disc containing the confidential material under seal.¹ 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.

Subject to its objection regarding relevance stated in its original response to data request KIUC 1-53, 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.

¹ Kentucky Power is also filing today redacted versions of the same, along with other public documents, on a separate disc labeled "Public."

This exception applies to the following information for which Kentucky Power is seeking confidential treatment:

(a) **KIUC 1-53**

KIUC propounded the following data request on Kentucky Power:

Q1-53. Kentucky Power released the following statement on its website:

2013 Kentucky Power 250 MW RFP

Kentucky Power Company (Company) is undertaking a process to determine the least, reasonable cost solution to replacing the impending generation loss anticipated with the retirement of its Big Sandy Unit 1 generation unit. Big Sandy Unit 1 is a 278 MW coal fired generating unit that went into service in 1963 and is currently scheduled for retirement in 2015. Big Sandy Unit 1 is located near Louisa, Kentucky and is within the PJM regional transmission organization. Options available to the Company for the replacement of the Big Sandy Unit 1 generation capacity as a coal fired generation resource include:

- *Converting the Big Sandy Unit 1 to a natural gas fired generation unit (BS1 Conversion) and continuing to operate it, and*
- *issuing an RFP for 250 MW of PJM Generation Capacity Resources.*

The Company will use the proposals received as a result of this 250 MW RFP along with the BS1 Conversion cost estimate to determine the least, reasonable cost solution to replacing the Big Sandy Unit 1 capacity as a coal fired generating unit.

(<https://www.kentuckypower.com/b2b/rfp/2013250MW/>)

Please provide the results of this RFP as soon as they are available. As is the case with all of KIUC's data requests, this request is continuing in nature, and information which Kentucky Power later becomes aware of, or has access to, and which is responsive to this request should be delivered to KIUC when it becomes available.

Following discussions with counsel for KIUC, and without waiving its objections to the production and admissibility of the information being produced, Kentucky Power and KIUC agreed that the Company's response to the Commission's May 28, 2013 Order in Case No. 2013-00578 would be accepted by KIUC in satisfaction of the request.

Kentucky Power seeks confidential treatment for the identified portions of the confidential portions of the Company's July 1, 2013 supplemental response to data request KIUC 1-53. The information for which confidential treatment is being sought was developed by Kentucky Power based upon information provided by third-parties pursuant to confidentiality agreements and in response to Kentucky Power's March 28, 2013 request for proposals for up to 250 MW of long-term capacity and energy ("RFP"). Kentucky Power in part developed the information and conducted its evaluation in conformity with the Commission's May 28, 2013 order in Case No. 2012-00578.

The confidential portions of the Company's July 1, 2013 supplemental response to data request KIUC 1-53 contains information relating to the responses to the RFP, including bidder identification, the identity of the assets or arrangements being offered, fuel and transaction costs, and pricing terms. The information also provides insight into the manner by which Kentucky Power evaluates bids in response to RFPs. Because Kentucky Power conducted this evaluation at the beginning of its analysis of the RFP bids, a comparison between the initial and final price could also provide insight into the Company's negotiating process. Godfrey Affidavit, ¶ 6. Disclosure of this information could put Kentucky Power at a competitive disadvantage in future contract negotiations to the detriment of the Company and its customers. *Id.*

Further, the information contained in July 1, 2013 confidential information is protected as Confidential Information under the Mutual Confidentiality Agreement between American Electric Power Service Corporation ("AEPSC"), as Kentucky Power's agent, and the bidders. Godfrey Affidavit, ¶ 7. Disclosure of this information is not prohibited by the Agreement, but the protections afforded by confidential treatment are required. *Id.* Failure to maintain this

information as confidential could have a chilling effect on the willingness of potential bidders in future Kentucky Power and AEPSC RFPs to respond to such requests. *Id.*

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 request is highly confidential. Godfrey Affidavit, ¶ 4. Dissemination of the information for which confidential treatment is being requested is restricted by Kentucky Power, its parent, AEP, and its affiliates (including AEPSC). Godfrey Affidavit, ¶ 9. 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. *Id.* The information is not disclosed to persons outside Kentucky Power, AEP, or its affiliates. *Id.* 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. *Id.* In addition, Kentucky Power and AEPSC have further limited the availability of the information to ensure the integrity of the RFP process.

The confidential information should be kept confidential for five years, unless the Company enters into a final agreement with one of the bidders to the RFP. In that case, the Confidentiality Agreement requires that the Company treat the identified material as confidential until two years after the termination of the final agreement. After these time periods (the term of final agreement plus two years or five years if there is no final agreement), developments within the power markets will render the information outdated and no longer useful in ascertaining the Company's strategies and plans. Prior disclosure will adversely affect the Company's ability to negotiate future purchased power agreements.

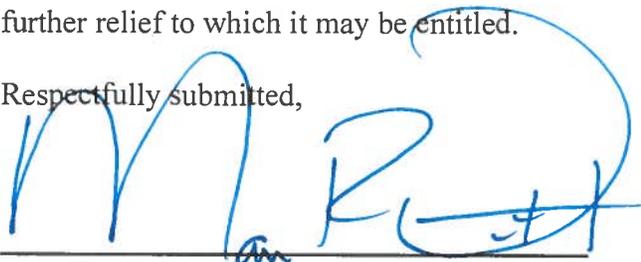
C. The Identified Information Is Required To Be Disclosed To An Agency.

The identified information is by the terms of the Commission's Order, 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.

WHEREFORE, Kentucky Power Company respectfully requests the Commission to enter an Order:

1. According confidential status to and withholding from public inspection the identified information; and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



Mark R. Overstreet
R. Benjamin Crittenden
STITES & HARBISON PLLC
421 West Main Street
P. O. Box 634
Frankfort, Kentucky 40602-0634
Telephone: (502) 223-3477

Kenneth J. Gish, Jr.
STITES & HARBISON PLLC
250 West Main Street, Suite 2300
Lexington, Kentucky 40507
Telephone: (859) 226-2300

COUNSEL FOR:
KENTUCKY POWER COMPANY

CERTIFICATE OF SERVICE

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

Michael L. Kurtz
Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

By Overnight Delivery

on this the 1st day of July, 2013.

Jennifer Black Hans
Dennis G. Howard II
Lawrence W. Cook
Kentucky Attorney General's Office
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601-8204

By Overnight Delivery



Mark R. Overstreet