

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 TO AMEND ITS DEMAND-SIDE  
MANAGEMENT PROGRAM AND FOR  
AUTHORITY TO IMPLEMENT A TARIFF TO  
RECOVER COSTS AND NET LOST REVENUES,  
AND TO RECEIVE INCENTIVES ASSOCIATED  
WITH THE IMPLEMENTATION OF THE  
PROGRAMS

CASE NO. 2013-00487

**MOTION OF KENTUCKY POWER COMPANY FOR LEAVE TO DEVIATE FROM  
FILING REQUIREMENTS AND FOR CONFIDENTIAL TREATMENT**

Kentucky Power Company ("Kentucky Power") moves the Commission pursuant to 807 KAR 5:001, Section 21, for leave to deviate from the filing requirements of the Commission's January 13, 2014 Order. Specifically, the Company requests that it be permitted to substitute a single paper copy and ten electronic copies of its attachments to its response to Sierra Club Data Request SC 1-3 for the original and ten copies required by the Commission's order because of the voluminous nature of the responses.

In addition, Kentucky Power moves the Commission pursuant to 807 KAR 5:001, Section 13(2), for an Order granting confidential treatment for portions of the attachments provided in response to Commission Staff Data Requests KPSC 1-8(c), 1-13(c), and 1-16(c) and Sierra Club Data Requests 1.8(b) and 1.11(b). Pursuant to 807 KAR 5:001, Section 13, Kentucky Power is filing under seal those portions of the attachments to its response to Commission Staff Data Requests 1-8(c), 1-13(c), and 1-16(c) and Sierra Club Data Requests 1.8(b) and 1.11(b) with the confidential portions highlighted in yellow. Kentucky Power is also filing the original and ten copies of the redacted version of the same. Kentucky Power will

notify the Commission when it determines the information for which confidential treatment is sought is no longer confidential.

In support of its motions, Kentucky Power states:

**I. Motion to Deviate From Filing Requirements**

Pursuant to the Commission's January 13, 2014 Order, Kentucky Power is required to file an original and ten copies of all data requests and attachments, along with a service copy to all parties of record. The attachments to Kentucky Power's response to Sierra Club Data Request SC 1-3 are voluminous. A single set of the attachments to this data request comprise over seven hundred pages of responsive material. Filing these electronically allows the other parties to the case full access to the documents. Through this motion the Company seeks the Commission's approval for this deviation from the standard filing requirements.<sup>1</sup>

**II. Motion for Confidential Treatment**

**A. The Requests and the Statutory Standard.**

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 attachment be excluded from the public record and public disclosure.

KRS 61.878(1)(c)(I) 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:

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<sup>1</sup> The Commission has approved similar requests in Case No. 2012-00221, *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates* (Ky. PSC Oct, 29, 2012).

(a) **Commission Staff Data Requests KPSC 1-8(c), 1-13(c), and 1-16(c)**  
**and Sierra Club Data Requests SC 1.8(b) and SC 1.11(b).**

Kentucky Power's responses to Commission Staff Data Requests KPSC 1-8(c), 1-13(c), and 1-16(c) and Sierra Club Data Requests SC 1.8(b) and 1.11(b) each include as attachments contracts or proposals from the Company's DSM vendors. Specific pricing and other information contained in proposals from and service contracts between Kentucky Power and its program implementation contractors and vendors is considered confidential and proprietary information by the contractors and vendors. Such contracts include provisions that preclude Kentucky Power from making the information sought by Commission Staff and the Sierra Club publicly available. Disclosure of the responses will place both the vendor names and cost information in the public domain. This will allow competitors of the current vendors to reverse-engineer the bids made by the current vendors. 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.<sup>2</sup>

Further, public disclosure of the information for which confidential treatment is sought may limit the number of vendors willing to enter into such contracts with Kentucky Power. This in turn could reduce competition among vendors and lead to higher prices or lesser services. This would place Kentucky Power at a competitive disadvantage vis-à-vis other utilities. In addition, 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.

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<sup>2</sup> The Commission recently granted confidential treatment for similar information in its Order Regarding Request for Confidential Treatment in Case No. 2013-00138, *In the Matter of: Application of Kentucky Power Company to Amend its Demand-Side Management Program and for Authority to Implement a Tariff to Recover Costs and Net Lost Revenues, and to Receive Incentives Associated with the Implementation of the Programs* (Ky. PSC Aug. 28, 2013).

Kentucky Power requests that the information be withheld from public disclosure until July 1, 2016. The latest contract end date is December 31, 2015, and the extra time beyond the end of the contract period ensures that the information will not be available when Kentucky Power next contracts for similar services, thereby increasing the likelihood that the information will be stale when made public.

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 Commission Staff Data Requests KPSC 1-8(c), 1-13(c), and 1-16(c) and Sierra Club Data Requests SC 1.8(b) and 1.11(b) is highly confidential. The confidential information is not generally known or readily ascertainable by other parties through normal or proper means. No reasonable amount of legitimate independent research could yield this confidential information to other parties. Dissemination of the information for which confidential treatment is being requested is restricted by Kentucky Power, its affiliated operating companies, AEP, and AEPSC (the "AEP Entities"). The AEP Entities take all reasonable measures to prevent its disclosure to the public as well as persons within the AEP Entities who do not have a need for the information. The information is not disclosed to persons outside the AEP Entities and members of the Kentucky Power DSM Collaborative that have executed the appropriate non-disclosure agreements. 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.

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

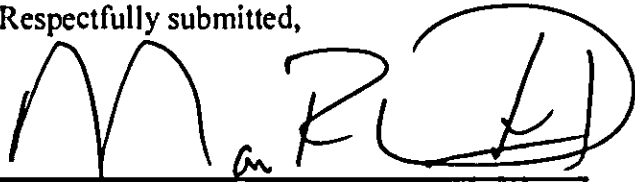
The identified information is by the terms of the Commission's Order required to be disclosed to the Commission. The Commission is a "public agency" as that term is defined at

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. Granting the Company leave to file an original paper copy and ten electronic copies of the Company's response to SC 1-13;
2. According confidential status to and withholding from public inspection the identified information; and
3. 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**

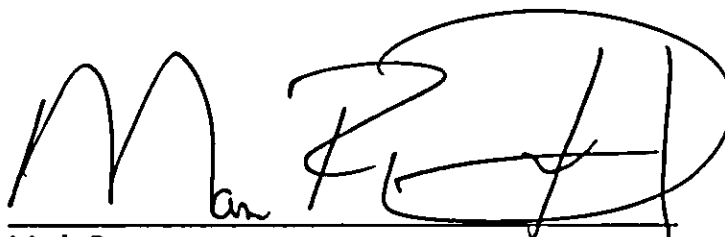
I hereby certify that a true and accurate copy of the foregoing was served on the following via e-mail transmission:

Jill Tauber  
Earthjustice  
1625 Massachusetts Avenue, N.W., Suite 702  
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S. Laurie Williams  
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Washington D.C. 20001

Joe F. Childers  
Joe F. Childers and Associates  
300 Lexington Building  
210 West Short Street  
Lexington, Kentucky 40507

on this the 14<sup>th</sup> day of February, 2014.

  
Mark Overstreet