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PUBLIC SERVICE COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION OF THE)	
APPLICATION OF THE FUEL)	
ADJUSTMENT CLAUSE OF AMERICAN)	CASE NO. 2007-00522
ELECTRIC POWER COMPANY FROM)	
May 1, 2007 THROUGH OCTOBER)	
31, 2007)	

* * * * *

PETITION FOR CONFIDENTIAL TREATMENT

Kentucky Power Company ("Kentucky Power") moves the Commission pursuant to 807 KAR 5:001, Section 7, for an Order according confidential treatment to Attachment 17(b) to Kentucky Power's Response to Information Request 17(b). The information requests were set forth in Appendix B of the Commission's Order dated January 23, 2008.

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 this data request. In addition, four redacted copies of the subject Response are filed with Petition.

A. The Request And The Statutory Standard.

Information Request 17(b) requires Kentucky Power to file and disclose:

". . . 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 ranked the proposals. (This document should identify all vendors who made offers.) State the reasons for each selection."

Kentucky Power does not object to providing to the Commission the data sought in Information Request 17(b).

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 Information Request 17(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 department 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. In addition, recent historical coal supply cost information and recent bid responses are now being used by suppliers in their negotiations with AEPSC. In both cases, suppliers armed with such competitive intelligence can adjust their bids to maximize their profits, to the disadvantage of Kentucky Power and its customers.

AEPSC's extensive fuel procurement experience and communications with other industry professionals indicate that the absence of knowledge about Kentucky Power's forecasted or recent coal volumes, prices and contract terms, as well as the Company's strategy with regard to fuel acquisition, results in bids that are more original, imaginative and creative in response to RFPs issued by the Company. Kentucky Power and its customers benefit when competitive bidders apply creativity to develop the pricing and terms contained in such proposals.

For example, in a recent negotiation for the transport of coal, AEPSC's representative was asked by a potential transporter why AEPSC was seeking a price lower than what the Company had forecast in a recent regulatory filing. This experience clearly demonstrates the benefit to suppliers and corresponding harm to ratepayers from making such data public.

In addition, companies which compete with Kentucky Power for the sale of power to other utilities or into the market are given a competitive advantage by being able to closely estimate the cost of Kentucky Power's next increment of generation. In this way they can out bid Kentucky Power for such sales, thus eliminating off-system sales margins, 83% of which accrued to the benefit of customers as a credit against the cost of fuel for the most recent twelve month period.

Finally, the internet has enhanced the ability of suppliers to obtain and use publicly available information. The availability of regulatory filings and related contractual information on a commission's website, or through other means, makes it very easy for suppliers and competitors to search for sensitive data. In addition,

industry publications use these sources to “data mine” and publish information from filings.

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 requests call 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 Information Request No. 17(b), Kentucky Power incorporates by reference the Company's similar Motion and Pleadings in prior Fuel Adjustment Clause proceedings, such as Case Nos. 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 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 after December 31, 2007 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.

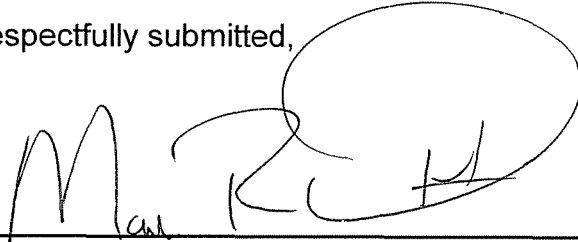
E. The Information Is Required To Be Disclosed To An Agency.

Finally, the records requested in Information Request 17(b) are by the terms of the Staff's Information 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 Information Request 17(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 Attachment 17(b) to Kentucky Power's responses to Information Request 17(b); and
2. Granting Kentucky Power all further relief to which it may be entitled.

Respectfully submitted,



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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 12th day of February, 2008.

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