

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**RECEIVED**

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PUBLIC SERVICE  
COMMISSION

**In the Matter of:**

**APPLICATION OF KENTUCKY UTILITIES )**  
**COMPANY FOR CERTIFICATES OF )**  
**PUBLIC CONVENIENCE AND NECESSITY ) CASE NO. 2009-00197**  
**AND APPROVAL OF ITS 2009 COMPLIANCE )**  
**PLAN FOR RECOVERY BY )**  
**ENVIRONMENTAL SURCHARGE )**

**PETITION OF KENTUCKY UTILITIES COMPANY**  
**FOR CONFIDENTIAL PROTECTION**

Kentucky Utilities Company (“KU”), pursuant to 807 KAR 5:001, Section 7, respectfully petitions the Commission to classify as confidential and protect from public disclosure certain information provided by KU in response to Question No. 24 of the Initial Data Request of Commission Staff, dated August 19, 2009. KU requests confidential treatment of information contained in several documents that collectively represent KU’s analysis of proposals sent to KU concerning the projects contain in KU’s Application in this proceeding, as well as KU’s award recommendations for the projects (“Confidential Information”). In support of this Motion, KU notes that the Commission treated similar coal bid analysis information as confidential in two of KU’s most recent two-year and six-month fuel adjustment clause review proceedings. (*See* Letter from Executive Director Jeff Derouen re KU Petition for Confidential Protection, Case No. 2008-00520 (March 20, 2009); Letter from Executive Director Stephanie Stumbo re KU Petition for Confidential Protection, Case No. 2008-00285 (October 20, 2008); Letter from Executive Director Beth O’Donnell re KU Petition for Confidential Protection, Case No. 2007-00524 (February 27, 2008); collectively attached hereto as Attachment 1.)

In further support of this Motion, KU states as follows:

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure information confidentially disclosed to it to the extent that open disclosure would permit an unfair commercial advantage to competitors of the entity disclosing the information to the Commission. *See* KRS 61.878(1)(c). Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. Disclosure of the factors underlying KU's proposal analysis and selection process concerning environmental compliance projects would damage KU's competitive position and business interests. This information reveals the business model the Company uses—the procedure it follows and the factors and inputs it considers—in evaluating proposals for some of the most important and costly projects in which KU engages. If the Commission grants public access to the information requested in Question No. 24, potential respondents to KU's requests for proposals could manipulate the proposal solicitation process to the detriment of KU and its customers by tailoring proposals to correspond to, and to comport with, KU's confidential internal evaluation criteria and process. As noted above, the Commission has treated such information as confidential in the past. (*See* Attachment 1.)

3. The information for which KU is seeking confidential treatment is not known outside of KU, is not disseminated within KU except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information in the energy industry.

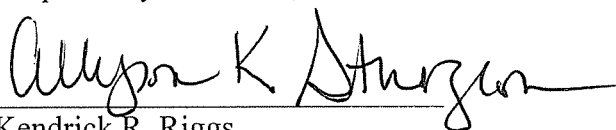
4. KU does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, to intervenors with legitimate interests in reviewing the same for the purpose of participating in this case.

5. In accordance with the provisions of 807 KAR 5:001, Section 7, KU is filing with the Commission one copy of the Confidential Information highlighted and ten (10) copies without the Confidential Information.

**WHEREFORE**, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection to the information designated as confidential for a period of five years from the date of filing the same.

Dated: September 2, 2009

Respectfully submitted,



Kendrick R. Riggs  
W. Duncan Crosby III  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828  
Telephone: (502) 333-6000

Allyson K. Sturgeon  
Senior Corporate Counsel  
E.ON U.S. LLC  
220 West Main Street  
Louisville, Kentucky 40202  
Telephone: (502) 627-2088

Counsel for Kentucky Utilities Company

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Petition for Confidential Protection was served via U.S. mail, first-class, postage prepaid, this 2nd day of September 2009, upon the following persons:

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

  
Counsel for Kentucky Utilities Company

# **ATTACHMENT 1**



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd  
P O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
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psc.ky.gov

David L. Armstrong  
Chairman

James W. Gardner  
Vice Chairman

John W. Clay  
Commissioner

March 20, 2009

Hon. Allyson K. Sturgeon  
E.ON U.S. LLC  
220 West Main Street  
P.O. Box 32010  
Louisville, Kentucky 40232

Re: Kentucky Utilities Company - Petition for Confidential Treatment received  
February 11, 2009 - PSC Reference – Case No. 2008-00520

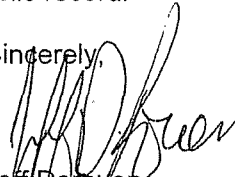
Dear Ms. Sturgeon:

The Public Service Commission has received the Motion for Confidential Treatment you filed on February 11, 2009 on behalf of Kentucky Utilities Company to protect certain information filed with the Commission as confidential under Section 7 of 807 KAR 5:001 and KRS 61.870 et. seq. The information you seek to have treated as confidential is identified as certain information contained in Kentucky Utilities Company's Responses to Data Request Nos. 6, 9 and 24 of the Commission's Order Appendix B dated January 23, 2009, and more particularly described as (No. 6) forecasted sales revenues; (No. 9) planned maintenance schedules; and (No. 24) bid analysis information.

Based on a review of the information and pursuant to KRS 61.878 and 807 KAR 5:001, section 7, the Commission has determined that the information you seek to keep confidential is of a proprietary nature, which if publicly disclosed would permit an unfair commercial advantage to your client's competitors. Therefore, the information requested to be treated as confidential meets the criteria for confidential protection and will be maintained as a nonpublic part of the Commission's file in this case. The procedure for usage of confidential materials during formal proceedings may be found at Section 7(8) of 807 KAR 5:001.

If the information becomes publically available or no longer warrants confidential treatment, Kentucky Utilities Company is required by Section 8(9)(a) of 807 KAR 5:001 to inform the Commission so that the information may be placed in the public record.

Sincerely,



Jeff Derouen  
Executive Director

kg/  
cc: Parties of Record

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Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
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Commonwealth of Kentucky  
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David L. Armstrong  
Chairman

James Gardner  
Vice-Chairman

John W. Clay  
Commissioner

October 20, 2008

Stoll Keenon Ogden, PLLC  
Attention: W. Duncan Crosby III  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828

E.ON U.S. LLC  
Attention: Allyson K. Sturgeon  
220 West Main Street  
Louisville, Kentucky 40202

Re: Kentucky Utilities - Petition for Confidentiality received 9/12/08  
PSC Reference – Case No. 2008-00285

Dear Sir/Madam:

The Public Service Commission has received Kentucky Utilities' Petition for confidential treatment requesting to protect as confidential certain information contained in its response to questions 10(a) and 17 set out in Appendix A of the Commission's Order dated August 22, 2008. The information is described as 2 Weir Reports which concern coal suppliers' costs in complying with the "Miner Act" and coal bid analysis information.

Based upon a review of the information, I have determined that it is entitled to the protection requested on the grounds relied upon in the Petition and should be withheld from public inspection.

If the information becomes publicly available or no longer warrants confidential treatment, Kentucky Utilities is required by 807 KAR 5:001, Section 7(9)(a), to inform the Commission so that the information may be placed in the public record.

Sincerely,

Stephanie Stumbo  
Executive Director

kg/

cc: Parties of Record



Steven L. Beshear  
Governor

Robert D. Vance, Secretary  
Environmental and Public  
Protection Cabinet

Timothy J. LeDonne  
Commissioner  
Department of Public Protection

Commonwealth of Kentucky  
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Mark David Goss  
Chairman

John W. Clay  
Vice Chairman

Caroline Pitt Clark  
Commissioner

February 27, 2008

Hon. Kendrick R. Riggs  
Hon. W. Duncan Crosby III  
STOLL KEENON OGDEN, PLLC  
2000 PNC Plaza, 500 W. Jefferson St.  
Louisville, Kentucky 40202-2838

Hon. Allyson K. Sturgeon  
E.ON U.S. LLC  
220 West Main Street  
Louisville, Kentucky 40202

Re: Kentucky Utilities Company's Petition for Confidentiality  
PSC Case No. 2007-00524

Gentlemen and Ms. Sturgeon:

The Public Service Commission has received Kentucky Utility Company's Petition for confidential treatment requesting to protect as confidential, certain information in its Response to Item 17 of the Commission's Order of January 23, 2008. This information is identified in the Petition as pertaining to coal bid analysis information.

Based upon a review of the information, I have determined that it is entitled to the protection requested on the grounds relied upon in the Petition and should be withheld from public inspection.

If the information becomes publicly available or no longer warrants confidential treatment, Kentucky Utilities Company is required by 807 KAR 5:001, Section 7(9)(a), to inform the Commission so that the information may be placed in the public record.

Sincerely,

Beth O'Donnell,  
Executive Director

kg/  
cc: Parties of Record