

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

THE APPLICATION FOR APPROVAL OF)
RENEWABLE ENERGY PURCHASE AGREEMENT)
FOR WIND ENERGY RESOURCES BETWEEN)
KENTUCKY POWER COMPANY AND FPL ILLINOIS)
WIND, LLC)

Case No. 2009-00545

* * * * *

MOTION FOR CONFIDENTIAL TREATMENT

Kentucky Power Company ("Kentucky Power" or "the Company"), moves the Commission pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 7, for an Order granting confidential treatment to information included in the transcript of the hearing conducted in this proceeding on May 25, 2010. The transcript is being filed with Kentucky Power's brief as Exhibit 1. The specific information the Company seeks confidential treatment for is already part of pending requests for confidentiality before the Kentucky Public Service Commission in this case.

1. Pursuant to 807 KAR 5:001, Section, 7, a confidential copy of Kentucky Power's brief with the complete hearing transcript is filed under seal with this motion, and confidential copies are being served on the parties who have executed non-disclosure agreements with Kentucky Power in this proceeding. In addition, copies of the brief with the redacted transcript are filed with this motion.¹

Statutory Standard

2. KRS 61.878(1)(c)(1) excludes from the public disclosure requirements of the

Open Records Act:

"[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

The Confidential Information satisfies this exception.

The Information Is Generally Recognized As Confidential And Proprietary

3. The confidential information contained within the hearing transcript is the subject of pending confidential treatment motions filed by Kentucky Power on December 29, 2009, February 12, 2010, April 27, 2010 and May 19, 2010. These motions are supported by the affidavit testimony of Jay F. Godfrey and Scott C. Weaver. Kentucky Power incorporates by reference the previously-filed motions and affidavits and asks that the Commission afford confidential treatment to those portions of the hearing transcript that address the information that is the subject of those motions. The Commission recognized the confidential nature of this information at the hearing, ruling that it should not be broadcast for public viewing on the Commission's Web site.

4. As Mr. Godfrey and Mr. Weaver testify in their previously-filed affidavits, the information at issue is generally considered confidential and proprietary. It is not available to or ascertainable by, persons outside Kentucky Power or American Electric Power Service Corporation ("AEPSC") (Collectively, "the Companies") by proper means other than on a confidential basis. Indeed, the information derives economic value from the fact it is not generally known to persons who can obtain value from its disclosure.

¹ The entire transcript is being treated as confidential. Accordingly, Kentucky Power has not highlighted any portions of the transcript in its confidential filing and the public copy of Kentucky Power's brief will not include a copy of the transcript as Exhibit 1, but instead will include a statement that the Exhibit is confidential in its entirety.

5. In light of the confidential and proprietary nature of the information AEPSC and Kentucky Power take all reasonable efforts to protect it from public disclosure. Among the measures taken are limiting access to this type of information within the companies to only those persons with a legitimate need to access the information, protecting against disclosure outside the Companies, and entering into confidentiality agreements to protect against disclosure by persons outside the Companies who are afforded access for legitimate purposes.

Disclosure Of The Confidential Information Will Result in An Unfair Competitive Advantage To The Competitors Of Kentucky Power

6. The Confidential Information, if disclosed to competitors of the Company, or otherwise made publicly available, would provide an unfair competitive advantage to competitors of the Company. The Confidential Information therefore is entitled to protection from disclosure by the Commission. Kentucky Power's previously-filed confidentiality motions and the affidavit testimony of Mr. Godfrey and Mr. Weaver set forth the specific manner in which the Company's competitor's would receive an unfair competitive advantage through the public disclosure of the confidential information included in the hearing transcript. For example, the public disclosure of the Confidential Information would be detrimental to Kentucky Power by:

a) Provide the public the Company's competitive assumptions and/or negotiated contract terms concerning a natural gas combined cycle and combustion turbine;

b) Establish certain benchmarks in future negotiations, thereby potentially increasing costs incurred by customers of Kentucky Power and its affiliates;

c) Permit other purchasers to benefit from Kentucky Power's efforts in negotiating the REPA and "cherry-pick" the most advantageous contracts and terms to Kentucky Power's competitive disadvantage;

- d) Increase the cost of these sources of renewable energy; and
- e) Discourage other generators from interacting with the Company to discuss future potential sources from suppliers, because the confidential information was provided based upon the understanding the information would not be publicly disclosed.

7. As set forth in Kentucky Power's previous confidentiality filings, the renewable energy market is extremely competitive. Information such as the proposed pricing of a new generator could affect the bargaining between potential sellers and purchasers, and provide competitors of Kentucky Power an unfair competitive advantage. The Commission previously recognized that terms of power supply agreements that included pricing were confidential in this case in a Commission letter dated February 11, 2010 and filed in this docket on February 12, 2010.

Wherefore, Kentucky Power Company respectfully requests the Commission grant confidential treatment to the portions of the hearing transcript recognized as confidential during the hearing conducted on this matter on May 25, 2010.

Respectfully submitted,



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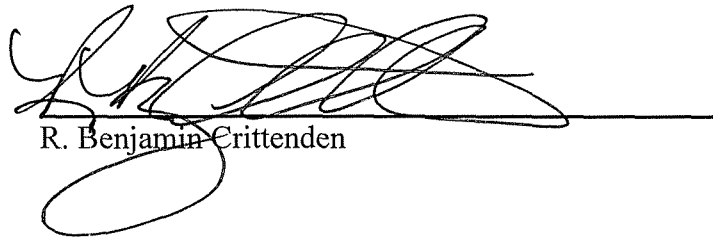
COUNSEL FOR:
KENTUCKY POWER COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by first class mail, postage prepaid, upon the following parties, this 8th day of June, 2010.

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