ATTORNEYS

March 7, 2011

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Mark R. Overstreet (502) 209-1219 (502) 223-4387 FAX moverstreet@stites.com

EVED

MAR 07 2011

PUBLIC SERVICE COMMISSION

HAND DELIVERED

Jeff R. Derouen Executive Director Public Service Commission 211 Sower Boulevard P.O. Box 615 Frankfort, KY 40602-0615

RE: P.S.C. Case No. 2010-00490

Dear Mr. Derouen:

Enclosed please find and accept for filing the original and ten copies of Kentucky Power Company's responses to Commission Staff's Second Data Request to Kentucky Power Company, dated February 25, 2011.

Copies of the data request responses are being served with this letter on counsel for the Attorney General and Kentucky Industrial Utility Customers, Inc. Please do not hesitate to contact me if you have any questions.

Mark R. Overstreet

MRO

cc: Michael L. Kurtz

Dennis G. Howard, II

Alexandria, VA Atlanta, GA Frankfort, KY Franklin, TN Jeffersonville, IN Lexington, KY Louisville, KY Nashville, TN

COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

MAR 07 2011

PUBLIC SERVICE
COMMISSION

In the Matter of:

AN EXAMINATION OF THE APPLICATION OF)
THE FUEL ADJUSTMENT CLAUSE OF)
KENTUCKY POWER COMPANY FROM) CASE NO. 2010-00490
NOVEMBER 1, 2008 THROUGH OCTOBER 31,)
2010)

PETITION FOR CONFIDENTIAL TREATMENT

Kentucky Power Company ("Kentucky Power") moves the Commission pursuant to 807 KAR 5:001, Section 7, for an Order granting confidential treatment to Kentucky Power's Responses to Data Requests No. 1 and 2 in the Commission Staff's second set of data requests.

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 the data requests. In addition, ten redacted copies of the subject responses are filed with the remaining Responses to the Data Requests.

A. The Request And The Statutory Standard.

Staff Data Request No. 1 requires Kentucky Power to file and disclose:

Refer to the response to Item 9 of the Data Request issued with the Commission's January 26, 2011 Order ("Commission's First Request"). Provide the starting and ending dates for each planned outage shown for 2011 and 2012.

Staff Data Request No. 2 requires Kentucky Power to file and disclose:

Refer to Kentucky Power's confidential response to Item 24 of the Commission's First Request. Provide attachments 24-1 and 24-6 in

ascending order of lowest evaluated cost. For all bids lower than those selected by Kentucky Power, include the reason the lower bid was not selected.

Kentucky Power does not object to providing to the Commission the information sought in Staff Data Requests 1 and 2. However, the information should be afforded confidential treatment.

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 Staff Data Requests 1 and 2. .

B. The Information provided by Kentucky Power in response to Staff Data Request No. 2 should be afforded confidential treatment.

The information provided by Kentucky Power in response to Staff Data Request No. 2, filed as Attachments 2-1 and 2-2, includes the information filed previously by Kentucky Power in Attachments 24-1 and 24-6 in response to Data Request No. 24 in the Staff's first set of data requests. Kentucky Power sought confidential treatment for this information in a petition filed with the Commission on February 14, 2011. By letter dated February 23, 2011 confidential treatment was granted. Kentucky Power incorporates its previously-filed petition by reference and requests that the Commission afford confidential treatment to the information provided in Attachments 2-1 and 2-2 for the reasons set forth in its previously-filed petition.

In addition to the information previously afforded confidential treatment in Attachments 24-1 and 24-6, Kentucky Power also seeks confidential treatment of the names of the companies that submitted bids, information of the basin from which the

coal is obtained and the specification identifier. Although this information was publicly disclosed in an unranked form in Kentucky Power's earlier responses, it has not been publicly disclosed in a ranked fashion. It is the combining of this information with the Company's internal evaluation that gives rise to the competitive injury. Specifically, public disclosure of the information to be protected along with the associated rankings will compromise Kentucky Power's ability to obtain the lowest reasonable cost of fuel for its customers by revealing information regarding the manner in which Kentucky Power evaluates coal supply bids. Further, the previously disclosed information for which Kentucky Power seeks confidential treatment is not publicly disclosed by Kentucky Power in a ranked fashion; Kentucky Power takes all reasonable measures to protect the confidentiality of the ranked information.

C. <u>The Information Provided by Kentucky Power in Response to Staff Data</u> Request No. 1 is Generally Recognized as Confidential and Proprietary.

The request calls for the specific starting and ending dates for Kentucky Power's planned outages for 2011 and 2012. This information is highly confidential.

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 Data Request No. 1, Kentucky Power notes that it sought and received confidential treatment for information pertaining to planned future outages in Case No. 2007-00477. Kentucky Power is aware of no instances in which the Commission has denied confidential treatment to similar information in other proceedings. To the contrary,

information about planned outages is generally recognized as confidential and proprietary in the energy industry, and other utilities have sought and obtained confidential treatment for the information in other Commission proceedings. *See, e.g.,* Administrative Case No. 387 (Petition of Duke Energy Kentucky, Inc. for Confidential Treatment of Certain Information Filed for Calendar Year 2009).

D. <u>Disclosure Of The Information Included in Kentucky Power's Response to Staff Data Request No. 1 Will Result In An Unfair Commercial Advantage.</u>

The rise of competitive markets such as PJM has placed a premium on generating unit data. Competitive Energy Market Intelligence, especially in regard to Real-Time Generation and unit availability, has developed into a cottage industry. Public disclosure of information about unit availability could adversely impact ratepayers and shareholders of Kentucky Power by providing a competitive advantage to Kentucky Power's direct competitors, thereby affecting Kentucky Power's ability to minimize costs for its rate paying customers.

Unit availability information is especially useful for competition as savvy marketers can estimate AEP's generation position and raise generation offers if they believe AEP will be energy short, resulting in Kentucky Power paying higher prices to procure energy to serve its customers. This type of data is highly valued by competing energy marketers and traders who speculate in forward energy transactions. Using forecasted unit availability data, other parties could improve their forecast accuracy of future AEP operations and utilize the resulting intelligence to influence negatively Kentucky Power's costs of providing electricity to its customers. Such actions would ultimately raise the cost to Kentucky Power's customers.

E. The Information Included in Kentucky Power's Response to Staff Data Request No. 1 Is Required To Be Disclosed To An Agency.

Finally, the information requested in Staff Data Request No. 1 is by the terms of the Data 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 planned outages are within the scope of the Commission's review, and that parties to this fuel clause proceeding should have access to the information sought through Staff Data Request No. 1. 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:

- According confidential status to and withholding from pubic inspection
 Kentucky Power's responses to Staff Data Requests 1 and 2; 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

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 7th day of March, 2011.

Michael L. Kurtz Boehm, Kurtz & Lowry 2110 CBLD Center 36 East Seventh Street Cincinnati, OH 45202

Dennis Howard II Assistant Attorney General Office for Rate Intervention P. O. Box 2000 Frankfort, KY 40602-2000

Mark R. Overstreet

COMMONWEALTH OF KENTUCKY

BEFORE THE

PUBLIC SERVICE COMMISSION OF KENTUCKY

IN THE MATTER OF	RECEIVE
	MAR 07 2011
	PUBLIC SERVICE COMMISSION
AN EXAMINATION OF THE APPLICATION)
OF THE FUEL ADJUSTMENT CLAUSE OF)
KENTUCKY POWER COMPANY) CASE NO. 2010-00490
FROM NOVEMBER 1, 2008 THRU OCTOBER 31,)
2010)

KENTUCKY POWER COMPANY RESPONSES TO COMMISSION STAFF'S SECOND SET OF DATA REQUESTS

March 7, 2011

AFFIDAVIT

Kimberly K. Chilcote, upon being first duly sworn, hereby makes oath that if the foregoing questions were propounded to her at a hearing before the Public Service Commission of Kentucky, she would give the answers recorded following each of said questions and that said answers are true.

Kymberly K. Chilecto Kimberly K. Chilcote

State of Ohio

) Case No. 2010-00490

County of Franklin

Sworn to before me and subscribed in my presence by Gina L. Beyer, this the Third day of March 2011.

ARIAL S

GINA L. BEYER
Notary Public, State of Ohio
My Commission Expires 07-01-2011

My Commission Expires: July 1, 2011

AFFIDAVIT

Aaron M. Sink, upon being first duly sworn, hereby makes oath that if the foregoing questions were propounded to him at a hearing before the Public Service Commission of Kentucky, he would give the answers recorded following each of said questions and that said answers are true.

raton W. Sink

Commonwealth of Kentucky

) Case No. 2010-00490

County of Boyd

Sworn to before me and subscribed in my presence by Aaron Sink, this the 2nd day of March, 2011.

Notary Public

My Commission Expires:

BELINDA STACY NOTARY PUBLIC STATE AT LARGE STATE OF KENTUCKY

I.D. #423276 Commission Expires July 6, 2014

KPSC Case No. 2010-00490 Commission Staff's Second Set of Data Request Order Dated February 25, 2011 Item No. 1 Page 1 of 1

Kentucky Power Company

REQUEST

Refer to the response to Item 9 of the Data Request issued with the Commission's January 26, 2011 Order ("Commission's First Request"). Provide the starting and ending dates for each planned outage shown for 2011 and 2012.

RESPONSE

Kentucky Power Planned Outage Schedule

2011

Big Sandy Unit 1, Big Sandy Unit 2,



2012

Big Sandy Unit 1, Big Sandy Unit 2,



WITNESS: Aaron M Sink

	~		

KPCo Case No. 2010-00490 Commission Staff's Second Set of Data Request Order Dated February 25, 2011 Item No. 2 Page 1 of 1

Kentucky Power Company

REQUEST

Refer to Kentucky Power's confidential response to Item 24 of the Commission's First Request. Provide attachments 24-1 and 24-6 in ascending order of lowest evaluated cost. For all bids lower than those selected by Kentucky Power, include the reason the lower bid was not selected.

RESPONSE

Please see Attachments 1 and 2 of this response. Attachment 1 includes the information provided in response to the Commission's First Request in attachment 24-1. Attachment 2 includes the information previously presented in Attachment 24-6.

WITNESS: Kimberly K Chilcote

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Commission Staffs Second Set of Data Requests
Order Dated February 25, 2011
Item No. 2
Attachment 1 (Redacted)
Page 2 of 8

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KPSC Case No. 2010-00490 Commission Staff's Second Set of Data Requests Order Dated February 25, 2011 Item No. 2 Attachment 1 (Redacted) Page 3 of 8

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KPSC Case No. 2010-00490 Commission Staffs Second Set of Data Requests Order Dated February 25, 2011 Item No. 2 Attachment 1 (Redacted) Page 4 of 8

KPSC Case No. 2010-00490 Commission Staffs Second Set of Data Requests Order Dated February 25, 2011 Item No. 2 Attachment 1 (Redacted) Page 5 of 8

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