

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE KENTUCKY STATE BOARD ON**  
**ELECTRIC GENERATION AND TRANSMISSION SITING**

**In the Matter of:**

<b>THE APPLICATION OF KENTUCKY</b>	)	
<b>PIONEER ENERGY, LLC FOR A</b>	)	
<b>CONSTRUCTION CERTIFICATE</b>	)	<b>CASE NO. 2002-00312</b>
<b>PURSUANT TO KRS 278.704(1) TO</b>	)	
<b>CONSTRUCT A MERCHANT</b>	)	
<b>ELECTRIC GENERATING FACILITY</b>	)	

**KENTUCKY PIONEER ENERGY, LLC'S PETITION**  
**FOR CONFIDENTIAL TREATMENT OF INFORMATION**

Kentucky Pioneer Energy, LLC (“KPE”) petitions the Kentucky State Board on Electric Generation and Transmission Siting (“Board”) pursuant to 807 KAR 5:110 Section 5 and KRS 61.878(1)(c) to grant confidential protection to certain information that is contained in its responses to the Board Staff’s First Data Request dated January 13, 2003 in the above styled case. In support of this Petition, KPE states as follows:

1. On November 26, 2003, KPE filed an Application with the Board for a Certificate of Construction to construct a 540 MW (net export) Integrated Gasification Combined Cycle (“IGCC”) electric generating plant on property leased from East Kentucky Power Cooperative (“EKPC”) located in Clark County, Kentucky. On January 13, 2003, the Board issued its First Data Request. In Item No. 1, the Board Staff requested KPE to provide a copy of the Site Lease Agreement (“SLA”) by and between EKPC and KPE.

2. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1) (c) (1). To qualify for this exemption and, therefore, maintain the

confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

3. The response to Item No. 1 of the Board Staff's First Data Request contains sensitive commercial information concerning the pricing schedule for a site lease that could accommodate an IGCC facility, the disclosure of which would cause competitive injury to KPE. Public disclosure would undermine KPE's negotiating ability to procure competitively priced lease agreements for future sites by giving potential lessors an unfair competitive advantage. Any impairment of KPE's ability to obtain the most advantageous price possible for its future lease sites will harm KPE's ability to secure such sites at the lowest possible price and thereby potentially increase KPE's cost of providing power from future plants. The wholesale price of power is highly competitive. To the extent KPE's cost of providing power is increased because of the public disclosure of this information, the disclosure would cause competitive injury to KPE.

4. This information is treated as highly confidential within KPE, and is not widely disseminated among KPE employees. Only personnel with a business reason to use this confidential information—senior management, directors, and those employees engaged in the preparation and analysis of the KPE-IGCC project—have access.

5. In accordance with 807 KAR 5:110 Section 5 (2) (a) (b), one unredacted copy of the SLA which identifies the confidential material by highlighting with transparent ink and ten (10) redacted copies of page five of the SLA with the confidential material obscured is attached hereto. As its response to Item No. 1 to the Board Staff's First Data Request, the applicant is filing ten (10) sets of the responses with the confidential information redacted.

**WHEREFORE**, Kentucky Pioneer Energy, LLC respectfully requests that the Board grant confidential protection to the information identified in KPE's Site Lease Agreement.

Respectfully submitted,

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Kendrick R. Riggs  
Joseph A. Bickett  
OGDEN NEWELL & WELCH PLLC  
1700 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202  
Telephone: (502) 582-1601

COUNSEL FOR KENTUCKY  
PIONEER ENERGY, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of January 2003, a true and accurate copy of the Petition for Confidential Treatment of Information was mailed, postage prepaid, to the following:

Dwight N. Lockwood, P.E., QEP  
Vice President, Regulatory Affairs  
Kentucky Pioneer Energy, LLC  
c/o Global Energy, Inc.  
312 Walnut Street, Suite 2000  
Cincinnati, Ohio 45202

Robert Blanton  
Clark County Planning and Zoning  
Post Office Box 40  
Winchester, Kentucky

Honorable Drew Graham  
Judge/Executive  
Clark County Courthouse  
Room 103  
34 South Main Street  
Winchester, Kentucky 40391

Mike Haydon  
Office of the Governor  
700 Capitol Avenue, Suite 100  
Frankfort, Kentucky 40601-3492

John Raymond Maruskin  
1101 Ironworks Road  
Winchester, Kentucky 40391

Hank List  
Secretary  
Natural Resources and Environmental  
Protection Cabinet  
Office of Legal Services  
Capital Plaza Tower, 5<sup>th</sup> Floor  
500 Mero Street  
Frankfort, Kentucky 40601

J.R. Wilhite  
Commissioner, Community Development  
Economic Development Cabinet  
2300 Capital Plaza Tower  
500 Mero Street  
Frankfort, Kentucky 40601

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Counsel for Kentucky Pioneer Energy, LLC