

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

**In the Matter of:**

<b>APPLICATION OF KENTUCKY</b>	)	
<b>UTILITIES COMPANY FOR AN</b>	)	<b>CASE NO. 2014-00371</b>
<b>ADJUSTMENT OF ITS ELECTRIC</b>	)	
<b>RATES</b>	)	

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

Kentucky Utilities Company (“KU” or the “Company”) hereby petitions the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1) to grant confidential protection for the items described herein, which KU seeks to provide in response to Items 30(f), 61, 63(a), (d)-(f) and 65 of Kentucky Industrial Utility Customers, Inc.’s (“KIUC”) First Set of Data Requests.<sup>1</sup>

**Confidential or Proprietary Commercial Information (KRS 61.878(1)(c)(1))**

1. The Kentucky Open Records Act exempts from disclosure confidential or proprietary information, of a kind generally recognized to be confidential or propriety, to the extent that open disclosure would permit an unfair commercial advantage to competitors of the entity disclosing the information to the Commission.

2. Request 30(f) requires the Company to produce, with respect to the design of Trimble County Unit 2, “all reports, studies, memos, or emails describing any of the following: the scope of the problem, increased fuel expense due to the problem, increased purchase power expense due to the problem, reduced off-system sales due to the problem, remediation required due to the problem, costs incurred to correct the problem, or problem resolution.” In response to

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<sup>1</sup> In accordance with 807 KAR 5:001, Section 8(12)(b), a copy of this Petition’s electronic transmission receipt is affixed to the paper copy of the Petition being submitted to the Commission. None of the documents attached to the Petition require redaction under the Commission’s regulation, 807 KAR 5:001, Section 4(10).

this question, the Company is producing information that contains projected outage schedules, detailed budgeted capital commitments and operating and maintenance projections, as well as proprietary and confidential design and engineering information provided by third party contractors. The confidential documents are only a subset of the Company's response. With respect to the outage schedules, disclosure of this information would place the Company at an unfair commercial disadvantage by allowing the Company's competitors to know when their generating plants will be down for maintenance and thus know a crucial input into the Company's generating costs and need for power and energy during those periods. The competitive risk of disclosing this information is that potential suppliers will be able to manipulate the price of power bid to the Company in order to maximize their revenues, thereby causing higher prices for the Company's customers and giving a commercial advantage to competitors. The Commission has previously found that outage schedules merit confidential protection.<sup>2</sup> With respect to the detailed capital commitment and expense projections, disclosure of this information would substantially erode the Company's negotiating abilities when such projects are competitively bid. If potential bidders can examine the Company's internal expectations, bidders will adjust their bids accordingly, causing competitive harm to the Company and its ratepayers. With regard to the information provided by third party contractors, the Company is producing documents that reveal proprietary and confidential design, research and development, and engineering information provided by third party contractors to the Company with the expectation that such information would not be publicly disclosed. Public disclosure of this confidential information would harm the Company's ability to obtain

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<sup>2</sup> *In the Matter of: An Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company from November 1, 2010 through October 31, 2012* (Case No. 2012-00550) (Ky. PSC Aug. 19, 2013).

engineering services in the future by discouraging firms from fully and candidly assisting the Company due to confidentiality concerns.

3. Request No. 61 requests copies of “automatic reserve sharing” arrangements between the Company and other utilities or outside parties. In response, the Company is providing copies of its agreements and requests confidential protection of the documents in their entirety. The agreements are in effect capacity and energy purchase and sale agreements. This is confidential business information, the public disclosure of which would enable the Company’s competitors to discover, and make use of, the strategies the Company employs in obtaining such vital agreements, to the unfair competitive disadvantage of the Company and their customers. Moreover, the Commission recently granted confidential protection for commercially sensitive provisions of a power purchase contract on this same ground.<sup>3</sup>

4. Request No. 63(a) and (d)-(f) seeks information related to IRP planning assumptions to construct and operate a simple cycle combustion turbine. This response necessarily requires the Company to provide capital and expense projections that reveal the procedures followed and the factors and inputs considered by the Companies in evaluating the viability of possible generation projects. Public disclosure would give the Company’s contractors, vendors, and competitors access to the Company’s cost and operational parameters, and insight into the Company’s contracting practices. Public access to this information would impact the Company’s ability to negotiate with prospective contractors and vendors, and could harm the Company’s competitive position in the wholesale power market. All such commercial harms would ultimately harm customers, who would have to pay higher rates if the disclosed information resulted in higher fuel prices or adversely affected the Company’s generation asset

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<sup>3</sup> See *In the Matter of Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of Purchased Power Agreements and Recovery of Associated Costs*, Case No. 2009-00353, Letter from Executive Director Jeff DeRouen to W. Duncan Crosby III (Dec. 7, 2009).

procurement process or off-system energy sales. The Company sought confidential protection of this information in the IRP proceeding (Case No. 2014-00131), and the petition is currently pending.

5. Request No. 65 asks the Company to provide an unredacted copy of Exhibit 5, Capacity Purchase and Tolling Agreement and Exhibit 6, Analysis of May 2014 RFP Responses to the Company's application in Case No. 2014-00321. The Company sought confidential protection for portions of the Agreement in Case No. 2014-00321, and requests confidential protection of the same information in this proceeding. The information in Exhibit 5 that the Companies seek to protect is the product of extensive negotiations between the Companies and Bluegrass Generation Company, LLC. These provisions represent commercial credit, concessions, terms, and conditions that the Company has been able to negotiate for the benefit of the Companies and their customers. With respect to Exhibit 6, the information the Company seeks to protect is the confidential analysis and consideration of the various alternatives presented to the Company, based upon proprietary information provided to the Company by potential vendors. Those vendors, and others who might make proposals to the Company in the future, would not favor public disclosure of this information, and may be less willing to make proposals or respond to requests for proposals in the future. Future vendors would also be in a position to determine how the Company evaluates certain terms and conditions, and where they might have advantages over other vendors. Those vendors could use that information to fully exploit any inherent advantages they might have, rather than offering their best proposal, to the disadvantage of rate payers.

6. The information for which KU is seeking confidential treatment is not known outside of KU, and it is not disseminated within KU except to those employees with a legitimate business need to know the information.

7. KU will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors with a legitimate interest in this information and as required by the Commission.

8. If the Commission disagrees with this request for confidential protection, however, it must hold an evidentiary hearing (a) to protect KU's due process rights and (b) to supply with the Commission with a complete record to enable it to reach a decision with regard to this matter.<sup>4</sup>

9. In compliance with 807 KAR 5:001, Sections 8(3) and 13(2)(e), KU is filing with the Commission one paper copy that identifies by highlighting or other means the information for which confidential protection is sought and one electronic copy with the same information obscured.

10. Due to the ongoing sensitive nature of the commercial information at issue, the Company requests that confidential protection be granted for an indefinite period.

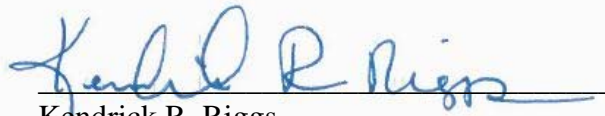
**WHEREFORE**, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection for the information described herein.

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<sup>4</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

Dated: January 23, 2015

Respectfully submitted,

A handwritten signature in blue ink that reads "Kendrick R. Riggs". The signature is written in a cursive style and is positioned above a horizontal line.

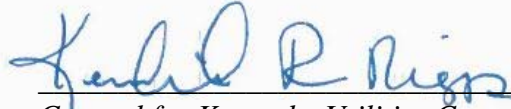
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*Counsel for Kentucky Utilities Company*

**CERTIFICATE OF COMPLIANCE**

This is to certify that Kentucky Utilities Company's January 23, 2015 electronic filing of the Petition for Confidential Protection is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on January 23, 2015; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original in paper medium of the Petition and an unobscured copy of the material for which confidentiality is sought sealed in an opaque envelope are being hand delivered to the Commission on January 23, 2015.

A handwritten signature in blue ink, reading "Gerald R. Riess", is written over a horizontal line.

*Counsel for Kentucky Utilities Company*