

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

**In the Matter of:**

<b>THE APPLICATION OF KENTUCKY UTILITIES</b>	)	
<b>COMPANY FOR CERTIFICATES OF PUBLIC</b>	)	
<b>CONVENIENCE AND NECESSITY AND</b>	)	<b>CASE NO. 2016-00026</b>
<b>APPROVAL OF ITS 2016 COMPLIANCE PLAN</b>	)	
<b>FOR RECOVERY BY ENVIRONMENTAL</b>	)	
<b>SURCHARGE</b>	)	

**KENTUCKY UTILITIES COMPANY'S  
PETITION FOR CONFIDENTIAL PROTECTION**

Kentucky Utilities Company (“KU”) 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 the Company seeks to provide in the testimony and exhibits of Charles R. Schram. In support of this petition, KU states as follows:

1. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for the exemption and, therefore, maintain the confidentiality of the information, a party must establish that the material is of a kind generally recognized to be confidential or proprietary, and the disclosure of which would permit an unfair commercial advantage to competitors of the party seeking confidentiality.

2. In the Direct Testimony of Charles R. Schram and in Exhibit CRS-1 to Mr. Schram’s testimony, which support KU’s Application in this proceeding, KU is providing information about what the combined cost of transportation and a tipping fee would need to be on a per-ton basis for it to be more economical for KU use a municipal landfill to dispose of certain coal-combustion residuals (“CCR”) than to build Phase II of the CCR landfill at the E.W. Brown Generating Station. KU is also providing in Exhibit CRS-1 KU’s cost to dispose of CCR on a per-ton basis at the Brown landfill. This information is confidential and highly

commercially sensitive. Publicly disclosing it would hinder KU's ability to receive the best proposals and procure the best contract terms in future negotiations for disposal services, both on-site and off-site, by providing potential vendors the price ceiling on what KU would be willing to pay, which would reduce, if not eliminate, vendors' incentive to provide their most competitive bids. Diminishing KU's ability to receive the best proposals and contract for the best possible terms would harm both KU and its customers through increased costs of service. This information should therefore be afforded confidential protection to protect KU and its customers.

3. The Commission has given confidential protection to similarly sensitive information in prior proceedings.<sup>1</sup>

4. In Exhibit CRS-3 to the Direct Testimony of Charles R. Schram, KU is providing the average dispatch costs for each unit in the combined generating fleet of KU and its sister utility, Louisville Gas and Electric Company (collectively, "Companies"). These costs are highly commercially sensitive because their disclosure would permit the Companies' competitors to learn at what cost the Companies generate power, which would permit those competitors to manipulate the market prices for purchased power to maximize their revenues to the Companies' financial detriment. Consequently, disclosure of this information would erode the Companies' competitive position in the wholesale power market. Also, disclosure of this information would result in a detrimental and undue erosion of the Companies' ability to obtain fuel at competitive prices because fuel suppliers could manipulate fuel prices to maximize their revenues based upon the Companies' projected costs. This would constitute an unfair disadvantage to the Companies.

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<sup>1</sup> See, e.g., *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2014-00371, Order Regarding Request for Confidential Treatment (Dec. 2, 2015).

5. The Commission has given confidential protection to similarly sensitive information in prior proceedings.<sup>2</sup>

6. In Exhibits CRS-1, CRS-2, and CRS-3 to the Direct Testimony of Charles R. Schram, KU is providing the replacement generating capacity costs used in its cost-benefit analyses. Public access to this information would impact the Companies' ability to negotiate with prospective contractors and vendors, and could harm the Companies' competitive position in the wholesale power market. All such commercial harms would ultimately harm the Companies' customers, who would have to pay higher rates if the disclosed information resulted in higher fuel prices or adversely affected the Companies' generation asset procurement process or off-system energy sales.

7. The Commission has given confidential protection to similarly sensitive information in prior proceedings.<sup>3</sup>

8. The information for which KU is seeking confidential treatment is not known outside of KU and the entity entering each contract, 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.

9. If the Commission disagrees with any of these requests for confidential protection, it must hold an evidentiary hearing (a) to protect the Companies' due process rights

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<sup>2</sup> See, e.g., *In the Matter of: Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00161, Order Regarding Request for Confidential Treatment (Oct. 7, 2011).

<sup>3</sup> For example, see the Commission's letter to the Companies dated October 10, 2011, concerning the Companies' 2011 IRP case (Case No. 2011-00140); the Commission's letter to the Companies dated May 1, 2008, concerning the Companies' 2008 IRP case (Case No. 2008-00148); the Commission's letter to the Companies dated April 28, 2005, concerning the Companies' 2005 IRP case (Case No. 2005-00162); the Commission's letter to the Companies dated October 24, 2002, concerning the Companies' 2002 IRP case (Case No. 2002-00367); and the Commission's letter to the Companies dated March 6, 2000, concerning the Companies' 1999 IRP case (Case No. 99-430).

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>

10. 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 the information for which confidential protection is sought and one electronic copy with the same information obscured.

11. KU respectfully requests that the information identified in the Direct Testimony of Charles R. Schram and Exhibits CRS-1 and CRS-3 be kept confidential for a period of five years, after which time the information will be of little use in the market.

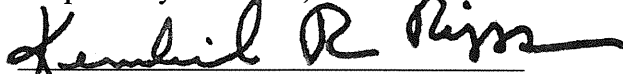
**WHEREFORE**, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection for the information described herein, or, in the alternative, schedule an evidentiary hearing on all factual issues while maintaining the confidentiality of the information pending the outcome of the hearing.

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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 29, 2016

Respectfully submitted,



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