

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

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 entirety of collections of Excel and PROSYM data files from production modeling runs KU used to project the present value of revenue requirements for its generating fleet under various assumptions (collectively, “Confidential Information”). KU seeks to provide the Confidential Information as attachments to its responses to Item Nos. 28 through 32 of the Commission Staff’s First Request for Information.¹

The attachments that make up the Confidential Information collectively contain almost 800 files sorted into more than 150 folders, with a total data volume of nearly 7 GB. It is possible that certain isolated files do not contain information from any of the categories described below, but the sheer volume of data being produced and the short time permitted for responding to discovery requests makes identifying those few files (if any) impracticable. Therefore, KU requests confidential protection for the entirety of the Confidential Information

¹ 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 personal privacy regulation, 807 KAR 5:001 Section 4(10).

because all or nearly all of the Confidential Information's files contain one or more of the kinds of information described below.

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

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. The Confidential Information KU is providing contains 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.

3. The Commission has given confidential protection to similarly sensitive information in prior proceedings.²

² See, e.g., *In the Matter of: Investigation of Kentucky Utilities Company's and Louisville Gas and Electric Company's Respective Need for and Cost of Multiphase Landfills at the Trimble County and Ghent Generating Stations*, Case No. 2015-00194, Order (Jan. 27, 2016); *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

4. Also, the Confidential Information KU is providing contains 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.

5. The Commission has given confidential protection to similarly sensitive information in prior proceedings.³

6. Also, the Confidential Information LG&E is providing contains detailed and highly granular financial information, including specific costs negotiated with vendors that are understood to be held in confidence. Public access to this information would impact the Companies' ability to negotiate with prospective contractors and vendors, and could harm the Companies' ability to obtain the most favorable prices and contractual arrangements for goods and services required to serve customers. All such commercial harms would ultimately harm the Companies' customers, who would have to pay higher rates if the disclosed information resulted in higher costs for goods and services required to serve customers.

7. The Commission has given confidential protection to similarly sensitive information in prior proceedings.⁴

Environmental Surcharge, Case No. 2011-00161, Order Regarding Request for Confidential Treatment (Oct. 7, 2011).

³ 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).

8. In addition, KU seeks confidential protection for the Confidential Information because it contains 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. Similarly, KU seeks confidential protection for the Confidential Information because it contains KU’s assumed cost to dispose of CCR in an offsite 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.

9. The Commission has given confidential protection to similarly sensitive information in prior proceedings.⁵

Confidential Information Protected from Disclosure by Federal Law
(KRS 61.878(1)(k))

10. In addition, KU seeks confidential protection for the Confidential Information because it contains not only confidential commercial information but also confidential

⁴ See, e.g., *In the Matter of: Investigation of Kentucky Utilities Company’s and Louisville Gas and Electric Company’s Respective Need for and Cost of Multiphase Landfills at the Trimble County and Ghent Generating Stations*, Case No. 2015-00194, Order (Jan. 27, 2016); *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Review, Modification, and Continuation of Existing, and Addition of New, Demand-Side Management and Energy-Efficiency Programs*, Case No. 2011-00134, Letter from Executive Director Jeff DeRouen (Aug. 31, 2011).

⁵ See, e.g., *In the Matter of: Investigation of Kentucky Utilities Company’s and Louisville Gas and Electric Company’s Respective Need for and Cost of Multiphase Landfills at the Trimble County and Ghent Generating Stations*, Case No. 2015-00194, Order (Jan. 27, 2016).

transmission information. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure public records or information the disclosure of which is prohibited by federal law or regulation. KRS 61.878(1)(k). The above-cited files contain transmission information that has not been made public. The Federal Energy Regulatory Commission's Standards of Conduct (*see* 18 C.F.R. Part 358) prohibit a transmission provider and its employees, contractors, consultants, and agents from disclosing, or using a conduit to disclose, non-public transmission function information to the transmission provider's marketing function employees or other entities' marketing function employees before the information is made public. Thus, KU seeks confidential protection of this information.

11. The Commission has given confidential protection to similarly sensitive information in prior proceedings.⁶

12. The information for which KU is seeking confidential treatment is not known outside of KU, 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.

13. If the Commission disagrees with any of this request for confidential protection, it must hold an evidentiary hearing (a) to protect the Companies' 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.⁷

14. The Confidential Information is also the subject of a Petition to Deviate from Rule due to the number, collective size, and complicated folder structure of the files being provided in

⁶ *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).

⁷ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

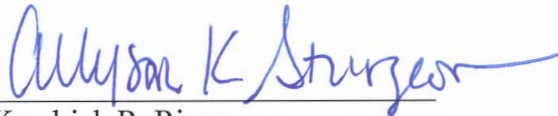
each attachment, and because the files would be largely unintelligible if printed on paper. The Petition to Deviate from Rule asks the Commission to allow KU to file the Confidential Information solely on electronic storage media. Therefore, KU is providing to the Commission herewith the Confidential Information on electronic storage media, not a paper copy.

15. KU respectfully requests that the Confidential Information 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.

Dated: March 24, 2016

Respectfully submitted,



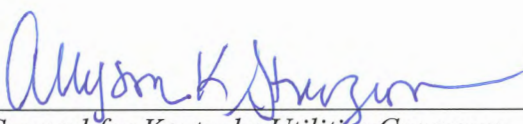
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CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001 Section 8, this is to certify that Kentucky Utilities Company's March 24, 2016 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 March 24, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of this Petition for Confidential Protection will be hand-delivered to the Commission on March 25, 2016.



Counsel for Kentucky Utilities Company