

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
KENTUCKY UTILITIES COMPANY FOR)	CASE NO. 2018-00294
AN ADJUSTMENT OF ITS ELECTRIC)	
RATES		

PETITION OF KENTUCKY UTILITIES COMPANY
FOR CONFIDENTIAL PROTECTION

Kentucky Utilities Company (“KU” or “the Company”) 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 information described herein, which KU is providing in a corrected and supplemental response to the Sierra Club, Alice Howell and Carl Vogel (“Sierra Club”) Initial Data Requests Item No. 9(d) in the above-captioned proceeding. In support of this Petition, KU states as follows:

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

1. The Kentucky Open Records Act exempts from disclosure certain commercial information.¹ To qualify for the exemption and maintain the confidentiality of the information, a party must establish that the material is of a kind “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.”²

2. In the table provided in the corrected and supplemental response to Sierra Club Request No. 9(d), KU is providing recent unit-level Ohio Valley Electric Corporation (“OVEC”) equivalent forced outage rates (“EFOR”). This data is potentially commercially sensitive and is

¹ KRS 61.878(1)(c).

² *Id.*

available to KU under agreement to maintain its confidentiality. The filed copy of the response contains redactions to protect the confidential EFOR data from public disclosure.

3. KU purchases power from OVEC pursuant to a long-existing cost-based Inter-Company Power Agreement. Disclosure of this information could allow wholesale market participants to estimate with greater precision the extent to which OVEC's plants might experience future forced outages and thus better predict the availability of OVEC's units to meet the Company's load, which affects the costs and availability of wholesale market power purchased by the Company. The competitive risk of disclosing this information is that potential energy suppliers to the Company will be able to manipulate the price of power bids to the Company to maximize their revenues, thereby causing higher prices for the Company's customers and giving a commercial advantage to competitors. Relatedly, the Commission has previously found that outage schedules merit confidential protection.³ The public disclosure of this information will create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. Thus, the Commission should grant confidential protection to this information contained in the corrected and supplemental response to Sierra Club Request No. 9(d).

4. The information for which KU is seeking confidential treatment is not known, to the Company's knowledge, outside of the Company and its counsel, OVEC and its counsel, and other limited parties (pursuant to confidentiality arrangements). It is not disseminated within the Company except to those employees with a legitimate business need to know and act upon the information.

³ *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2014-00372, Order Regarding Request for Confidential Treatment, (Ky. PSC Jan. 14, 2016); *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).

5. 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.

6. 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 the Commission with a complete record to enable it to reach a decision with regard to this matter.⁴

7. 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.

8. KU requests that confidential protection be granted for three years due to the sensitive nature of the information at issue.

WHEREFORE, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection to the information designated as confidential.

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

Dated: February 1, 2019

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

This is to certify that Kentucky Utilities Company's February 1, 2019 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 February 1, 2019; 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 February 1, 2019.



Counsel for Kentucky Utilities Company