

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

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 36(b), 76(a), 112, 113, 116, 139(a), and 196 of the Attorney General’s (“AG”) First Set of Data Requests; Items 1(a) and 13(c) of Charter Communications Operating, LLC’s (“Charter”) First Set of Data Requests; Items 17(c), 17(d), 18, 20(a), and 41(e) of Kentucky Industrial Utility Customers, Inc.’s (“KIUC”) First Set of Data Requests; Items 12(a) and 12(b) of Kentucky School Boards Association’s (“KSBA”) First Set of Data Requests; and Item 9 of Lexington-Fayette Urban County Government’s (“LFUCG”) First Set of Data Requests.

Confidential Personal Information – Customer-Identifying Information (KRS 61.878(1)(a))

1. The Kentucky Open Records Act exempts from disclosure certain private and personal information.¹

2. LFUCG Item 9 requests various plans, presentations, and studies related to street lighting. KU is providing a presentation titled “Lighting Rate Code Consolidation” in response

¹ KRS 61.878(1)(a).

to LFUCG Item 9. Portions of this presentation contain customer identifying information, as well as data regarding total number of fixtures and prices. Similarly, KIUC Item 17(c) requests KU to provide “any analyses, including internal only reports, that have been prepared by, or are available to the Company that perform an assessment of the Company’s load and energy forecasts.” The presentations provided by KU in response include customer names and projections of energy change by major customer account. Lastly, KIUC Item 18 asks KU to provide analyses, reports, emails or other writings that discuss the Company’s need to improve its models. One document KU provides in response contains the names of numerous customers. The identification of specific customers is personal information that should not be in the public domain. The Commission recently granted confidential protection to similar customer-identifying information.² Because information in the responses to LFUCG Item 9 and KIUC Items 17(c) and 18 identify specific customers, KU requests through this petition that the Commission protect the confidential portions of the documents from public disclosure.

3. KSBA Items 12(a) and 12(b) request “a list of the participating pilot school accounts that required a new meter in order to bill those accounts on the applicable pilot school rate” and “the participating pilot school accounts where a new/replacement meter was installed and why.” The responses to these two KSBA requests include customer names and contract account numbers. As mentioned above, the Commission has previously granted confidential

² *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-000221, Order at 1-2 (Ky. PSC July 25, 2013) (granting confidential protection to customer names, account numbers, and usage information); *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, a Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge*, Case No. 2012-0022, Order at 1-2 (Ky. PSC July 16, 2013) (granting confidential protection to “customer-identifying information such as customer names and account numbers”); *see also In the Matter of: Application of Kentucky-American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year*, Case No. 2012-00520, Order at 4 (Ky. PSC Aug. 1, 2014) (granting confidential protection to the response of Staff Item 77, which contained customer-identifying information like names, account numbers, balance history, and the names of customers qualifying for discounted service); *In the Matter of: DPi Teleconnect, LLC v. Bellsouth Telecommunications, Inc. d/b/a AT&T Kentucky*, Case No. 2005-00455, Letter from Stephanie Stumbo to Mary Keyer (Ky. PSC May 29, 2008).

protection to similar information.³ Because information in the response to KSBA Items 12(a) and 12(b) identify specific customers, KU requests through this petition that the Commission protect the entirety of the documents from public disclosure.

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

4. The Kentucky Open Records Act exempts from disclosure information “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.”⁴

5. AG Item 36(b) asks KU to provide the “cost-benefit analysis conducted by the Companies to determine the efficacy” of the \$20.8 million capital project to replace an existing gas transmission line. The documents provided in response to AG Item 36(b) contain bid summaries for the project. Similarly, KIUC Item 41(e) requests “a copy of the Company’s business case and/or all other economic and/or other studies that support that Company’s decision to proceed with demolition” of the Company’s retired generating plants. In response to both requests, KU is providing Investment Committee (“IC”) Proposals. The proposal contains the bids submitted by competitive bidders and details KU’s process for selecting a bidder. Confidential protection of the competitive bid information is necessary because disclosure would disrupt the competitive bid process and reveal KU’s internal analysis of bids to the detriment of the Company and its ratepayers. Thus, KU requests confidential protection for the highlighted portions of the proposals provided in response to AG Items 36(b) and KIUC Item 41(e).

6. AG Item 76(a) asks KU to “explain and provide support for the increase in meter reading expenses located on line No. 106 on both referenced pages of Schedule C-2.1.” KU is providing several documents, including vendor information regarding bids for contract meter

³ *Id.*

⁴ KRS 61.878(1)(c)(1).

reading (each marked proprietary and confidential) and KU summary documents regarding the same. The public disclosure of this information would prejudice each bidding vendor by allowing its competitors to know how it offers and prices its services. Public disclosure would also affect the Company's ability to obtain the most reasonable prices for such services in the competitive marketplace and the Company's ability to negotiate rates for services in the future. KU requests with this petition that the Commission protect from public disclosure all of the documents provided in response to AG Item 76(a) containing confidential information. The public disclosure of this information would 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.

7. AG Item 112 requests a list of utility peers used in the Willis Towers Watson Target Total Cash Compensation Study. The documents provided in response to AG Item 112 include spreadsheets listing the names of the entities that participated in the 2017 American Gas Association Compensation Survey and the 2017 EAP Data Information Solutions Energy Technical Craft Clerical Compensation Survey. American Gas Association takes the position that the identities of the entities participating in the survey constitute confidential information. As a participant in the American Gas Association survey, KU agreed to keep the identities of the entities confidential. If the spreadsheet is disclosed, the survey administrators may not allow KU to participate in future surveys. The EAP survey has not taken a stance on the confidentiality of participating entities, but out of an abundance of caution KU is requesting confidential protection for this information. If it turns out that EAP does not deem the identities of the entities to be confidential information, KU will withdraw its petition with regard to the EAP survey portion.

Thus, KU requests that the Commission protect from public disclosure the entire documents provided in response to AG Item 112.

8. AG Item 113 asks KU to provide a detailed breakdown for how the \$16,000 cost to train call center reps was derived. The request further asks for “all workpapers in Excel format, with formulas intact and cells unprotected and with all columns and rows accessible.” KU is providing a spreadsheet containing intricate pricing details regarding the hiring of a call center representative, including the advertising, interviewing, onboarding, and training costs. This is confidential business information and disclosure of this information could be used by competitors of the Company and vendors. Moreover, public disclosure of this information would reveal information about KU’s business strategies and hiring processes, which could affect KU’s ability to negotiate employment contracts in the future. Thus, KU seeks confidential protection of the highlighted portions of the spreadsheet provided in response to AG Item 113.

9. AG Item 116 requests information regarding the establishment of job pay midpoints based on external market compensation data. In response, KU is providing a spreadsheet that lists the job codes and job titles that are based on national general industry compensation data. The Kentucky Open Records Act exempts from disclosure certain private and personal information.⁵ The Kentucky Court of Appeals has stated, “information such as . . . wage rate . . . [is] generally accepted by society as [a] detail in which an individual has at least some expectation of privacy.”⁶ Additionally, the Kentucky Supreme Court has characterized “one’s income” as “intimate” information of a private nature.⁷ The Commission should therefore give confidential treatment to the information in KU’s response to AG Item 116 because disclosing the contents thereof would invade the privacy rights of certain individuals. Individuals are not

⁵ KRS 61.878(1)(a).

⁶ *Zink v. Department of Workers’ Claims, Labor Cabinet*, 902 S.W.2d 825, 828 (Ky. App. 1994).

⁷ *Cape Pub’ns, Inc. v. Univ. of Louisville Found., Inc.*, 260 S.W.3d 818, 822 (Ky. 2008).

named in the response to AG Item 116, but job titles and the ability to research national general industry compensation data would allow viewers to deduce the wage rate of individuals. Confidential protection of the entire spreadsheet in AG Item 116 is thus necessary because disclosure would constitute an unwarranted invasion of employee's personal privacy in contravention of KRS 61.878(1)(a).

10. AG Item 139(a) requests, with regard to the LOLP study in the Seelye Testimony, that KU provide "a detailed narrative description of how hourly generation output was developed." In response, KU is providing a document developed by the vendor that provides KU's PROSYM software and requests confidential protection of the document in its entirety. The document explains how the software calculates LOLP. The document is proprietary to the vendor and public disclosure could harm the relationship between KU and the vendor and others that provide software to KU. If the document is disclosed, vendors may be less willing to provide software to KU in the future to the detriment of KU and its ratepayers. KU requests confidential protection of the entire document provided in response to AG Item 139(a).

11. Charter Item 1(a), with regard to the exclusion from KU's Rate Pole and Structure Attachment Charges ("PSA") of certain Telecommunications Carriers who executed license agreements with KU prior to July 1, 2017, asks KU to provide "all agreements with such users related to the rates, terms, and conditions of Attachment" to KU Poles. The agreements provided in response to Charter Item 1(a) merit confidential protection because they are confidential business information. A number of the agreements have provisions requiring KU to keep the agreement confidential. If potential users seeking to attach their facilities to KU's poles had access to these agreements, these users could use this information to unfairly negotiate pole attachment agreements. Thus, disclosing the agreements could potentially harm the relationships

that KU has with existing pole attachment users and could place KU at a competitive disadvantage in negotiating future pole attachment agreements with persons not subject to Rate PSA. The Commission recently granted confidential protection to agreements between the Company and third parties on similar grounds.⁸ KU requests confidential protection for the entire documents provided in response to Charter Item 1(a).

12. Charter Item 13(c) asks KU to “provide all data related to the cost, or anticipated cost, of any planned or contemplated attachment audit of third party attachments on Your poles.” In response, KU is providing a vendor pricing document that includes unit and total pricing for pole audits. Publicly disclosing these costs for attachment audits would negatively impact the Company and its ratepayers because it may harm the relationship with KU and its vendors; as a result, KU may have difficulty negotiating favorable costs for pole audits in the future. Thus, the Commission should grant confidential protection for the vendor pricing data contained in the response to Charter Item 13(c).

13. KIUC Item 17(d) requests an explanation of the “@Risk” model and a “copy of the analysis used to assess the sales forecast used to develop the projected test year sales, by rate class, in this case.” Similarly, KIUC Item 20(a) asks KU to provide a spreadsheet with the “Service Territory-Specific Macroeconomic Forecasts” used in this rate case to project test year sales and demand. In response to both requests, KU is providing spreadsheets containing proprietary information obtained from a third party named IHS Markit. Additionally, the spreadsheet KU is providing in response to KIUC Item 17(d) contains customer information that should be granted confidential protection. KIUC Item 18 requests analyses, reports, and other writings that discuss the need to improve KU’s models, in response to which KU is providing a

⁸ *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 to KIUC’s Initial Request for Information (Ky. PSC Dec. 2, 2015).

document that contains weather projections from a third party vendor named WeatherBell. As players in a competitive market, IHS and WeatherBell do not want confidential technical information or projections they have made to be publically disclosed, or to be used against them in future negotiations with other customers or by their competitors. If this proprietary information is disclosed, IHS, WeatherBell, and other third-party suppliers of the same kinds of information and analyses may be less willing to supply reports to the Companies in the future. Diminishing the Companies' ability to receive this information would harm both the Companies and their customers. The Commission should grant confidential protection to the highlighted portions of the spreadsheet and document provided in response to KIUC Items 17(d) and 18, and to the entire spreadsheets in response to KIUC Item 20(a).

Critical Energy Infrastructure Information (KRS 61.878(1)(m))

14. KRS 61.878(1)(m)(1) exempts from disclosure public records that have a reasonable likelihood of threatening public safety by exposing a vulnerability, such as infrastructure records that disclose the "location, configuration, or security of critical systems," or "detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems."

15. AG Item 196 requests KU to provide copies of the Companies' Transmission System Improvement Plan ("TSIP") and "any and all cost benefit analyses the Companies may have conducted regarding alternatives to the projects and methods the Companies tend to pursue." KU's documents contain a number of Investment Committee ("IC") Proposals, which contemplate installation of lines at specific locations. Other IC Proposals contain detailed schematics, line maps, and diagrams for various transmission infrastructure, including substation protection and control equipment and transmission lines, along with the load served by that

equipment. Releasing a copy of these documents would thus pose a security concern. The Commission has recently granted confidential protection to similar Critical Energy Infrastructure Information.⁹ In addition to infrastructure concerns, some of the IC Proposals contain sensitive commercial information in the form of contractor names and bidding prices. Such information, if publicly disclosed, is likely to hinder and prejudice the Companies in their competitive bid processes for the same or similar work in the future. Because the Company's responses relate to the security of Critical Energy Infrastructure Information and contain sensitive commercial information, the Company requests that the Commission protect the highlighted portions of KU's response to AG Item 196 from public disclosure.

The Confidential Information Subject to this Petition

16. 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.

17. 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.

18. 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.¹⁰

⁹ *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 to AG's Initial Request for Information (Ky. PSC Dec. 2, 2015).

¹⁰ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

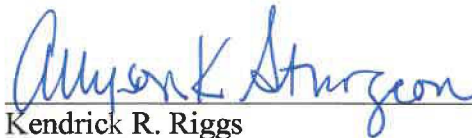
19. Unless otherwise noted, in compliance with 807 KAR 5:001, Sections 8(3) and 13(2)(e), KU is filing with the Commission one paper copy that identifies by highlighting or other means the information for which confidential protection is sought and one electronic copy with the same information obscured. Pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b), confidential treatment is sought for the entire documents produced in response to KSBA Items 12(a) and 12(b); AG Items 76(a), 112, 116, and 139(a); Charter Item 1(a); and KIUC Item 20(a). For these documents, as required by 807 KAR 5:001, Section 13(2)(a)(3)(b), written notification that the entire document is confidential is filed in lieu of highlighting.

20. Due to the serious security concerns related to the disclosure of Critical Energy Infrastructure Information, the Company requests that the responses to the highlighted portions of AG Item 196 remain confidential indefinitely. For all other requests for confidential protection, the Company requests that confidential protection be granted for five years due to the sensitive nature of the information at issue.

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

Dated: November 29, 2018

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

This is to certify that Kentucky Utilities Company's November 29, 2018 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 November 29, 2018; 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 November 29, 2018.

A handwritten signature in blue ink, reading "Allyson K. Sturgeon". The signature is written in a cursive style with a horizontal line underneath it.

Counsel for Kentucky Utilities Company