

**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 response to the Sierra Club, Alice Howell and Carl Vogel (“Sierra Club”) Initial Data Requests Item Nos. 5, 10, 11(a), 13, and 14 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.<sup>1</sup> 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.”<sup>2</sup>

2. In the attachments provided in response to Sierra Club Request Nos. 5 and 10, KU is providing Ohio Valley Electric Corporation (“OVEC”) cost forecasts. These forecasts relate to future energy, demand, and transmission charges, as well as operations and maintenance costs

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<sup>1</sup> KRS 61.878(1)(c).

<sup>2</sup> *Id.*

and capital costs. Similarly, in response to Sierra Club Request Nos. 13 and 14, KU is providing OVEC Board of Directors meeting minutes and presentations, which include commercially sensitive information relating to operating costs, cost estimates of environmental capital projects, and decision-making criteria and considerations concerning capital projects and energy market matters. The filed copies of the documents contain redactions to protect confidential projected cost information from public disclosure.

3. KU purchases power from OVEC pursuant to a long-existing cost-based Inter-Company Power Agreement. Public disclosure of this confidential information would affect OVEC's ability to obtain the most reasonable prices for such capital goods and other services in the competitive marketplace, which would adversely impact the price of power the Company purchases from OVEC. OVEC and other similar parties do not want confidential information or concessions they have made publicly disclosed because such information could be used against them in their future negotiations with other customers or by their competitors. OVEC and other similar parties are more likely to provide proposals and enter contracts when they know that sensitive terms will not be known to their competitors or their other customers. OVEC's vendors would not favor public disclosure of this information, and may be less willing to enter into contracts with OVEC or offer OVEC concessions if the information is disclosed.

4. Such information is generally recognized as confidential and proprietary information in the energy industry. The Commission has recently granted confidential protection to pricing information.<sup>3</sup> The confidential information in the attachment provided in response to

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<sup>3</sup> *In the Matter of: Electronic Application of Kentucky Utilities Company for an Order Authorizing the Issuance of Securities and Assumption of Obligations and an Order Amending and Extending Existing Authority with Respect to Revolving Line of Credit*, Case No. 2018-00153, Order (Ky. PSC Aug. 22, 2018); *see also In the Matter of: Application of Louisville Gas and Electric Company and Kentucky Utilities Company Regarding Entrance into Refined Coal Agreements, for Proposed Accounting and Fuel Adjustment Clause Treatment, and for Declaratory Ruling*, Case No. 2015-00264, Order (Ky. PSC Jan. 13, 2016) (granting confidential protection to information that contained technical vendor information, third party proposals, and pricing information); *In the Matter of: Joint*

Sierra Club Request Nos. 5, 10, 13, and 14 should therefore be afforded confidential protection to protect the Company and their customers.

5. In the attachment provided in response to Sierra Club Request No. 11(a), KU is providing documents that include OVEC unit outage schedules and OVEC project outage costs. Disclosure of this information would allow wholesale market participants to know when OVEC's plants will be down for maintenance and thus know 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 by knowing OVEC's outage schedules, 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>4</sup> Disclosing projected outage costs could also adversely affect the pricing vendors offer OVEC for outage-related services, in turn harming the Company's customers. 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 Sierra Club Request No. 11(a).

6. 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

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*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 (Ky. PSC Aug. 31, 2011).

<sup>4</sup> *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).

Company except to those employees with a legitimate business need to know and act upon 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 the Commission with a complete record to enable it to reach a decision with regard to this matter.<sup>5</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 the information for which confidential protection is sought and one electronic copy with the same information obscured.

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

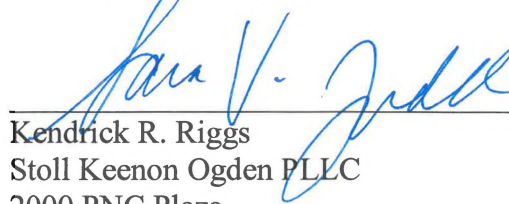
**WHEREFORE**, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection to the information designated as confidential.

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<sup>5</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

Dated: December 6, 2018

Respectfully submitted,



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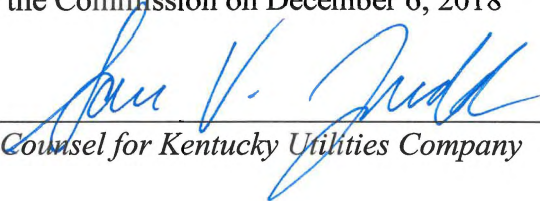
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*Counsel for Kentucky Utilities Company*

**CERTIFICATE OF COMPLIANCE**

This is to certify that Kentucky Utilities Company's December 6, 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 December 6, 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 December 6, 2018

  
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*Counsel for Kentucky Utilities Company*