

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF)	
KENTUCKY UTILITIES COMPANY FOR)	CASE NO. 2022-00371
APPROVAL OF AN ECONOMIC)	
DEVELOPMENT RIDER SPECIAL)	
CONTRACT WITH BITIKI-KY, LLC)	

JOINT PETITION
FOR CONFIDENTIAL PROTECTION

Kentucky Utilities Company (“KU”) 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 information described herein, which KU is providing in response to the Joint Intervenors’ Request for Information Nos. 18 and 24(b) in the above-captioned proceeding.¹ In support of this Petition, KU states as follows:

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

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure commercially sensitive information to the extent that open disclosure would permit an unfair commercial advantage to competitors of the entity disclosing the information to the Commission. See KRS 61.878(1)(c). Public disclosure of the information identified herein would prompt such a result for the reasons set forth below.

2. In response to Joint Intervenors’ Request for Information Nos. 18 and 24(b), KU is providing Excel files that contain confidential hourly variable and monthly marginal production cost data for KU and its sister utility, Louisville Gas and Electric Company (“LG&E”)

¹ The Joint Intervenors are Kentuckians for the Commonwealth, Kentucky Solar Energy Society, Mountain Association, and Kentucky Resources Council, Inc.

(collectively, the “Companies”), some of which is broken out by fuel, consumables, and other cost subcategories. This confidential information contains information regarding power production costs that KU wishes to protect from public disclosure—including projected costs of fuel and production costs—and was developed internally by the Companies’ personnel, is not on file with any public agency, is not available from any commercial or other source outside the Companies, and is distributed within the Companies only to those employees who must have access for business reasons. If the Commission grants public access to this information, KU could be disadvantaged in negotiating fuel contracts in the future, and it could also be disadvantaged in the wholesale energy market because fuel costs are important components of energy pricing. All such commercial harms would ultimately harm KU’s customers, who would have to pay higher rates if the disclosed information resulted in higher fuel prices or adversely affected KU’s off-system energy sales.

3. In addition, the KU is providing in response to Joint Intervenors’ Request for Information No. 18 files containing utility construction cost data from the Handy-Whitman Index, which is protected by copyright. If this proprietary and copyrighted information is disclosed, Handy-Whitman and other third-party suppliers of the same kinds of information may be less willing to supply reports to KU in the future. Diminishing the Companies’ ability to receive this information would harm both KU and its customers. This information should therefore be afforded confidential protection to protect KU and its customers.

4. With the exception of the information from the Handy-Whitman Index, the information for which KU is seeking confidential treatment is not known outside of LG&E and KU, is not disseminated within LG&E and 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. As discussed above, the Handy-Whitman Index information is available only to those who purchase such information, and publicly disclosing the report would do commercial harm to Handy-Whitman and likely KU, whose ability to purchase such information in the future could be compromised.

5. The Commission has consistently given confidential treatment to similar information.²

6. KU does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, to intervenors with legitimate interests in reviewing the same for the purpose of participating in this case.

7. If the Commission disagrees with this request for confidential protection, 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.³

8. Because KU is seeking confidential protection for the entirety of the confidential information, and in compliance with 807 KAR 5:001, Sections 8(3) and 13(2)(a)(3)b) and (e), as well as the Commission's Order March 24, 2020 Order in Case No. 2020-00085, KU will upload the confidential information to an encrypted file-share site for the Commission's retrieval. Access

² See, e.g., Case Nos. 2020-00349 and 2020-00350, Order (PSC Ky. Dec. 7, 2021) (granting confidential protection for fuel prices and variable O&M data); *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2018-00348, Order (Ky. PSC Nov. 16, 2018). See also *2014 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2014-00131, Joint Petition of Louisville Gas and Electric Company and Kentucky Utilities Company for Confidential Protection (Ky. PSC April 21, 2014) (requesting confidential protection for similar information; petition not ruled upon); 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).

³ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

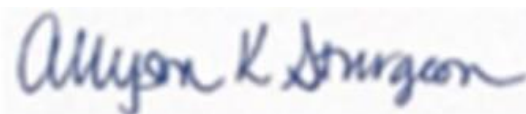
to the encrypted file-share site will be provided to intervenors pursuant to a confidentiality agreement.

9. KU requests that the information be kept confidential for at least five years from the date of this filing as that is the amount of time necessary before the confidential information becomes dated to the point that the need for protection no longer exists.

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

Dated: December 7, 2022

Respectfully submitted,



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Counsel for Kentucky Utilities Company

CERTIFICATE OF COMPLIANCE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on December 7, 2022; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

A handwritten signature in blue ink that reads "Allyson K. Strurgeon". The signature is written in a cursive style and is centered on the page.

Counsel for Kentucky Utilities Company