

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>AN EXAMINATION OF THE APPLICATION OF THE )</b>	
<b>FUEL ADJUSTMENT CLAUSE OF KENTUCKY )</b>	<b>CASE NO.</b>
<b>UTILITIES COMPANY FROM NOVEMBER 1, 2020 )</b>	<b>2023-00010</b>
<b>THROUGH OCTOBER 31, 2022 )</b>	

**PETITION OF KENTUCKY UTILITIES COMPANY**  
**FOR CONFIDENTIAL PROTECTION**

Kentucky Utilities Company (“KU”), pursuant to 807 KAR 5:001, Section 13, respectfully petitions the Commission to classify as confidential and protect from public disclosure certain information provided by KU in response to Question Nos. 4 and 34 of the Commission’s data requests, as contained in Appendix B to the Commission’s Order dated September 6, 2023. The information for which KU requests confidential protection (“Confidential Information”) pertains to coal bid analysis information and planned generation maintenance outages. In support of this Motion, KU notes that the Commission has treated this information as confidential in KU’s recent six-month and two-year fuel adjustment clause review proceedings.

In further support of this Petition, KU states as follows:

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure information confidentially disclosed to it 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, in fact, prompt such a result for the reasons set forth below.

2. Disclosure of the factors underlying KU's bid analysis/selection process would damage KU's competitive position and business interests. This information reveals the business model the Company uses -- the procedure it follows and the factors/inputs it considers -- in evaluating bids for coal supply. If the Commission grants public access to the information requested in Question No. 4, potential bidders could manipulate the bid solicitation process to the detriment of KU and its customers by tailoring bids to correspond to and comport with KU's bidding criteria and process. The Commission has consistently treated such information as confidential in the past.<sup>1</sup>

3. A portion of KU's response to Question No. 34 regarding planned maintenance outages also contains sensitive commercial information, the disclosure of which would unfairly advantage KU's suppliers during periods when KU may need to purchase power. This information would allow suppliers of KU to know when KU's generating plants will be down for maintenance, which is a crucial input for KU's generating costs and need for power and energy during those periods. The commercial risk of the disclosure of this information is that potential suppliers will be able to manipulate the price of power bid to KU in order to maximize their revenues, thereby causing higher prices for KU's customers and giving a commercial advantage to KU's suppliers.

4. Further, disclosure of planned generation maintenance outage information will damage KU's competitive position and business interests with regard to wholesale power sales. The planned outage information provided in response to Question No. 34 regarding scheduled outages is highly sensitive information that, if made public, would enable prospective purchasers of KU's power supply and KU's competitors to manipulate the bidding process to the detriment

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<sup>1</sup> In the Matter of: *AN ELECTRONIC EXAMINATION OF THE APPLICATION OF THE FUEL ADJUSTMENT CLAUSE OF KENTUCKY UTILITIES COMPANY FROM NOVEMBER 1, 2019 THROUGH APRIL 30, 2020*, Case No. 2020-00247, Order of February 1, 2021.

of KU. Thus, disclosure of this information may detrimentally impact KU's ability to contract for off-system sales during the same time period. Any impairment of KU's ability to obtain fair prices for its power supply will decrease the price KU is paid for its power supply. As a result, KU will not get the same quality of offers that would be produced by a system protected by the confidentiality employed by unregulated business and KU will not be able to compete effectively for off-system sales. Because a portion of KU's response to Question No. 34 regards scheduled outages during the balance of this year and all of next year, KU requests the information contained in response to Question No. 34 be afforded confidential protection for a period of five years. The Commission has historically granted confidential protection to this type of information.<sup>2</sup>

5. The information for which KU is seeking confidential protection 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.

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, however, it must hold an evidentiary hearing (a) to protect the 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>3</sup>

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<sup>2</sup> In the Matter of: *ELECTRONIC APPLICATION OF KENTUCKY UTILITIES COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC RATES AND FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY*, Case No. 2016-00370, Order of December 10, 2018.

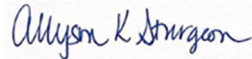
<sup>3</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

8. KU is filing with the Commission an electronic copy of each applicable confidential document under seal. For Question No. 4, the document is marked to be held confidential in its entirety. For Question No. 34, the document identifies with yellow highlights the information for which confidential protection is sought. A redacted version of the document for Question No. 34 is included with the electronic filing in this proceeding.

**WHEREFORE**, Kentucky Utilities Company respectfully requests the Commission grant confidential protection to the information designated as confidential in response to Question Nos. 4 and 34 for a period of five years from the date of filing the same.

Dated: September 22, 2023

Respectfully submitted,



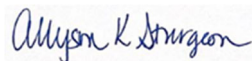
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Allyson K. Sturgeon  
VP and Deputy General Counsel-Regulatory  
PPL Services Corporation  
220 West Main Street  
Louisville Kentucky, 40202  
Telephone: (502) 627-2088  
Facsimile: (502) 217-4995  
asturgeon@pplweb.com

*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 September 22, 2023 and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



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Counsel for Kentucky Utilities Company