

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

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF</b>	)	
<b>KENTUCKY UTILITIES COMPANY</b>	)	
<b>FOR AUTHORITY TO TRANSFER THE</b>	)	<b>CASE NO. 2024-00198</b>
<b>FORMER MIDDLESBORO BUSINESS</b>	)	
<b>OFFICE PURSUANT TO KRS 278.218</b>	)	

**PETITION FOR CONFIDENTIAL PROTECTION**

Kentucky Utilities Company (“KU” or “Company”) petitions the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878 to grant confidential protection for certain information the Company is providing in response to Commission Staff’s First Request for Information, Item No. 2 (“PSC 1-2”). In support of its Petition, KU states the following:

**Confidential Commercial Information – KRS 61.878(1)(c)(1)**

1. The Kentucky Open Records Act exempts from disclosure certain records that if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.<sup>1</sup> Public disclosure of the information identified herein would prompt such a result for the reasons set forth below.

2. As an attachment in response to PSC 1-2, KU is providing a third-party appraisal report of its former Middlesboro Business Office property in Middlesboro, Kentucky, which property KU seeks to market and sell. This appraisal report was prepared by third party Chapman Appraisals LLC at KU’s request and expense. KU has no publication rights associated with the

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

report. The appraisal report states that it may neither be used by any person or corporation other than KU nor copied without the written consent of the signing appraisers.

3. Public disclosure of the third-party appraisal report would cause competitive harm to KU because it would disadvantage the Company in negotiating the sale of the Middlesboro Business Office. Potential buyers could obtain access to the appraisal report and utilize the highly relevant and proprietary information contained within the report to affect the ultimate purchase price of the Middlesboro Business Office. Public disclosure of the appraisal report could result in a less competitive sales process for the Middlesboro Business Office, which in turn could affect the sum realized by KU upon the sale of the property.

4. In addition, public disclosure of the appraisal report could give participants in the broader commercial real estate market a material, unfair advantage in future property sales conducted by KU as a result of knowing the values and assumptions and other business-sensitive decisions and activities undertaken by KU as set forth in the appraisal report.

5. Because the third-party appraisal report contains commercially sensitive information that is not publicly available and is critical to the success of KU's foreseeable real estate transactions and to the effective execution of the Company's business decisions and strategies, it should be afforded confidential protection pursuant to KRS 61.878(1)(c)(1).

6. The Commission has previously granted confidential protection to real estate appraisal reports under similar circumstances.<sup>2</sup>

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<sup>2</sup> See, e.g., *Electronic Application of Big Rivers Electric Corporation for a Certificate of Public Convenience and Necessity Authorizing Construction of a New Headquarters Facility and an Order Authorizing Big Rivers to Sell its Existing Headquarters Facility*, Case No. 2021-00314, Order at 5-6 (Ky. PSC Sept. 27, 2022); *Electronic Application of Jackson Purchase Energy Corporation for a Certificate of Public Convenience and Necessity to Construct a New Headquarters Facility*, Case No. 2019-00326, Order at 1-2 (Ky. PSC Jan. 14, 2020).

### **Confidential Information Subject to this Petition**

7. The information for which KU is seeking confidential treatment is not known outside of KU, the third-party appraisal firm, and KU's counsel, and it is not disseminated within KU except to those employees with a legitimate business need to know and act upon the information. Also, the Commission has previously stated that such information is generally recognized as confidential and proprietary.<sup>3</sup>

8. 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. At this time, no person has requested intervention in this case.

9. If the Commission disagrees with this request for confidential protection, it must hold an evidentiary hearing (a) to protect the Company'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>4</sup>

10. Pursuant to 807 KAR 5:001, Section 13(2)(b), for the attachment to PSC 1-2, KU is providing written notification that the document is confidential in its entirety. In accordance with the Commission's March 24, 2020 and July 22, 2021 Orders in Case No. 2020-00085, KU will provide a copy of the confidential document to the Commission by email.

11. Due to KU's lack of publication rights associated with the third-party appraisal report, KU requests that the attachment to PSC 1-2 remain confidential indefinitely. Alternatively, KU requests that the attachment to PSC 1-2 remain confidential until such time as the real estate transactions associated with the Middlesboro Business have closed.

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<sup>3</sup> See, e.g., Case No. 2021-00314, Order at 5 (Ky. PSC Sept. 27, 2022) (“[T]he Commission finds that ... the appraisal reports and estimated current value of BREC's existing headquarters is generally recognized as confidential or proprietary ...”).

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

**WHEREFORE,** Kentucky Utilities Company respectfully requests that the Commission issue an order granting protection from public disclosure for the confidential information specifically described in this petition.

Dated: August 12, 2024

Respectfully submitted,



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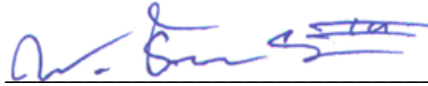
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**CERTIFICATE OF COMPLIANCE**

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 August 12, 2024, 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*