

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

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF</b>	)	
<b>KENTUCKY UTILITIES COMPANY FOR</b>	)	
<b>AN ADJUSTMENT OF ITS ELECTRIC</b>	)	
<b>RATES AND APPROVAL OF CERTAIN</b>	)	<b>CASE NO. 2025-00113</b>
<b>REGULATORY AND ACCOUNTING</b>	)	
<b>TREATMENTS</b>	)	

**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 is producing in response to the Commission Staff’s First Request for Information. The specific Requests for Information for which KU seeks confidential protection are Request Nos. 18, 39, 41, and 54.

1. On April 4, 2025, KU served notice of its intent to file a rate application with the Commission for a general adjustment of its electric rates, including changes to its electric tariffs and approval of certain regulatory and accounting treatments. On April 28, 2025, Commission Staff issued its First Request for Information to KU. On May 30, 2025, KU filed its rate application with the Commission. KU now files its responses to Commission Staff’s First Request for Information concurrent with this petition.

2. The Company’s responses contain sensitive information that the Commission has previously classified as exempt from public disclosure under KRS 61.878(1)(a), (c), (k), and (l).

**Confidential Information Protected from Disclosure  
by Federal or State Law (KRS 61.878(1)(k) and (l))**

***Federal and State Income Tax Returns***

3. Commission Staff Request No. 18 asks KU to provide “federal and state income tax returns for the most recent tax year, including supporting schedules.” Tax related documents and information merit confidential protection. KRS 61.878(1)(k) exempts from disclosure “[a]ll public records or information the disclosure of which is prohibited by federal law or regulation.”<sup>1</sup> Under 26 U.S.C. § 6103(a), state officials are prohibited from publicly disclosing any federal income tax return or its contents. Therefore, federal income tax returns and their content fall within the KRS 61.878(1)(k) exemption from public disclosure. The Kentucky Open Records Act also exempts from disclosure “[p]ublic records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.”<sup>2</sup> KRS 131.190(1) requires all income tax information filed with the Kentucky Department of Revenue be treated in a confidential manner. Thus, state income tax returns are also confidential in nature and protected from disclosure by the Kentucky Open Records Act. The Commission has previously kept KU’s federal and state income tax returns and supporting schedules and documents confidential in base rate cases.<sup>3</sup> Because KU’s response to Commission Staff Request No. 18 contains KU’s federal and state tax returns, and such information is of a confidential nature, the Commission should grant confidential protection to this information.

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

<sup>2</sup> KRS 61.878(1)(l).

<sup>3</sup> See, e.g., *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2018-00294, Order (Ky. PSC Dec. 7, 2021); *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Order (Ky. PSC Dec. 7, 2021). *Its Electric and Gas Rates*, Case No. 2018-00295, Order (Ky. PSC Oct. 8, 2019).

### ***HIPAA Protected Health Information***

4. Pursuant to KRS 61.878(1)(k) and the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) [Pub. L. No. 104-191] and 45 CFR § 160 et seq., the Company is requesting confidential treatment for certain individualized medical insurance information for Company officers produced in Attachment 8 of KU’s response to Commission Staff Request No. 41. This information includes individualized health, dental, vision, and life insurance coverage elections by executives and their families.

5. Regulations promulgated for the implementation of HIPAA provide for the protection of an individual’s “protected health information” and “individually identifiable health information.”<sup>4</sup> Protected information includes that received by an employer which “relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.”<sup>5</sup>

6. The individualized medical insurance information provided in response to Item No. 41 contains details related to insurance plan selections, costs, and employee expenditures. The Company believes that, if publicly disclosed, this information could be readily used in combination

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<sup>4</sup> 45 CFR § 160.103.

<sup>5</sup> *Id.*

with other information in this proceeding to identify individual employees' health coverage elections, medical issues, and other protected health information.<sup>6</sup>

7. For the reasons stated, the Company respectfully requests the protection of personally identifiable medical benefits information contained in its response to Item No. 41.

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

8. 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.”<sup>7</sup>

***Forecasted Wage Increases***

9. Commission Staff Request No. 39 asks KU to provide the amounts and percentage increases for general wage increases and for merit increases for each employee group for the past two calendar years, the base period, and the forecasted test period. With respect to the forecasted test period, KU requests to keep confidential its expectations regarding increases for the employee groups subject to negotiation in 2026. If KU's expectations are publicly disclosed, it could impair the Company's competitive negotiating position with employee groups in direct contravention of KRS 61.878(1)(c)(1).<sup>8</sup> KU is not requesting confidential protection for 2026 union pay increases that are not subject to negotiation in 2026.

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<sup>6</sup> Michael F. Sutton/Cabinet for Health and Family Services, Office of the Inspector General and Department for Community Based Services, Adult Protective Services Branch, KY OAG 05-ORD-054 (Mar. 30, 2005) (finding that the disclosure of personally identifiable health information implicates KRS 61.878(1)(a), (k), and (l)).

<sup>7</sup> KRS 61.878(1)(c)(1).

<sup>8</sup> In Case Nos. 2020-00349 and 2020-00350, the Commission denied confidential treatment for this information based on the absence of identifying personal information. Here, the Company reiterates that it is not the disclosure of identifying information, but the very real competitive harms caused by salary disclosures that supports its petition for confidential treatment of this item. See, e.g. *Electronic Application of East Kentucky Power Cooperative, Inc. for a General Adjustment of Rates, Approval of Depreciation Study, Amortization of Certain Regulatory Assets, and other General Relief* (May 17, 2021) (Approving confidential treatment for wage and benefit information on the basis of the potential competitive harms from public disclosure).

10. Given KU's investment in talent development and widespread shortages of energy sector employees, disclosure of the Company's expected increases to employee compensation may cause competitive harms in the form of poaching efforts from other large investor-owned utilities, contractors, and other entities in the industry.<sup>9</sup> Therefore, as in past proceedings, the Company requests confidential protection of this information to prevent commercial harms until such time as the Company's forecasted test year reaches its conclusion. The Commission has granted confidential protection to this information under in the past.<sup>10</sup>

### ***Litigation Information***

11. Commission Staff Request No. 54 asks KU to provide a copy of all exhibits and schedules that were prepared in the utility's rate application in Excel spreadsheet format. In response, KU is providing a spreadsheet version of the Company's lead-lag study, Exhibit AMF-5. Exhibit AMF-5 is subject to a Petition for Confidential Protection filed with the Commission on May 30, 2025. The Excel spreadsheet version of Exhibit AMF-5 filed in response to this data request includes in the O&M analyses certain amounts and information about settlement of lawsuits. This information is confidential for the same reasons as described in the Company's May 30, 2025 Petition for Confidential Protection.

### ***Special Contract Demand Rates***

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<sup>9</sup> In particular, KU notes that there is a recognized shortage in professional talent, as well as nationwide shortages in other areas such as welders, electricians and IT professionals. See Dixie Downing, *Skilling Up for a Sustainable Future: A Look at the Labor Shortage in Renewable Energy*, US INTERNATIONAL TRADE COMMISSION, (June 2024). Joseph W. Kane, *The incredible shrinking infrastructure workforce – and what to do about it*, BROOKINGS, <https://www.brookings.edu/articles/the-incredible-shrinking-infrastructure-workforce-and-what-to-do-about-it/> (May 11, 2023). “Thomas L. Keefe, et al., *2025 Power and Utilities Industry Outlook*, DELOITTE, <https://www2.deloitte.com/us/en/insights/industry/power-and-utilities/power-and-utilities-industry-outlook.html> (Dec. 9, 2024) (Observing that the utility industry is experiencing the highest level of worker demand among any established industry).

<sup>10</sup> Case No. 2018-00294, Order (Ky. PSC Oct. 8, 2019); Case No. 2018-00295, Order (Ky. PSC Oct. 8, 2019).

12. In response to Commission Staff Request No. 54, KU is providing an Excel spreadsheet version of Tab 66, which is already subject to a Petition for Confidential Protection filed with the Commission on May 30, 2025. The Company is also providing Excel spreadsheet versions of Tab 67; Exhibits TSL-2, TSL-3, TSL-4 and TSL-11 to the Direct Testimony of Tim S. Lyons; and KU's demand data.

13. The Excel spreadsheet versions of Tab 66; Tab 67; Exhibits TSL-2, TSL-3, TSL-4, and TSL-11; and KU's demand data contain special contract demand rates. These special contract demand rates constitute sensitive financial information meriting confidential treatment. The special contract demand rates are the product of extensive negotiations with the customer. Specifically, the negotiated demand rates contained in the special contract are a product of numerous factors unique to this customer, including the expected load profile of the project, variable cost coverage and contribution to fixed costs, and the size of the load.

14. This information is confidential for the same reasons as the special contract demand rate information included in Tab 66 and described in the Company's May 30, 2025 Petition for Confidential Protection. The rate information is commercially sensitive and public disclosure of this information would impair KU's ability to negotiate future customer contracts. If disclosed, KU anticipates the special contract rates would establish a specific target for future negotiations with other industrial and commercial enterprises looking to locate in KU's service territory. That data point could impair KU's ability to negotiate future contracts on terms that are advantageous to KU or to KU's other customers. The Commission has regularly granted confidential protection of special contract rate information to prevent other customers of a utility—both new and existing—from gaining unfair commercial advantage in future negotiations with the utility.<sup>11</sup>

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<sup>11</sup> *Electronic Application of Kentucky Utilities Company for Approval of Special Contract Between Kentucky Utilities Company and BlueOval SK, LLC*, Case No. 2023-00123, Order (Ky. PSC Nov. 3, 2023). See also *Electronic*

### **The Confidential Information Subject to This Petition**

15. 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.

16. 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.

17. 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.<sup>20</sup>

18. In compliance with 807 KAR 5:001, Section 13, KU is providing notification that the tax information attached as part of the Company's response to Item No. 18 is confidential in full.

19. For the Company's confidential attachments to responses to Item Nos. 39, 41, and 54, which are not entirely confidential, KU is filing with the Commission one electronic copy that identifies with redactions the information for which confidential protection is sought. Pursuant to the Commission's March 24, 2020 and July 22, 2021 Orders in Case No. 2020-00085, KU will upload the unredacted copies noting the confidential information with highlighting to its encrypted file-share site for the Commission's retrieval. Access to the encrypted file-share site will be provided to intervenors pursuant to a confidentiality agreement.

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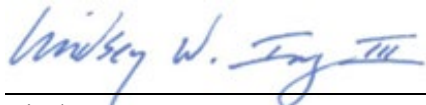
*Application of Kentucky Power Company for Approval of a Contract for Electric Service with Braidy Industries, Inc., Case No. 2018-00418, Order at 2 (Ky. PSC Aug. 20, 2019) (granting confidential protection of the rate contained in a special contract where "public disclosure of the contract rate would result in unfair commercial injury to Kentucky Power by establishing a ceiling for future negotiations with industrial and commercial enterprises looking to locate in the company's service territory").*

20. Due to the sensitive nature of the HIPAA information provided in response to Item No. 41, the Company requests indefinite confidential protection for that information. For all other confidential requests for information, KU requests that all 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: June 13, 2025

Respectfully submitted,



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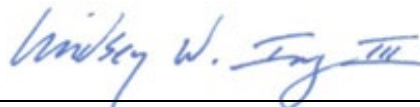
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*Counsel for Kentucky Utilities Company*

### **CERTIFICATE OF SERVICE**

In accordance 807 KAR 5:001, Section 8 as modified by 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 June 13, 2025; 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, reading "Lindsey W. Ingram".

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*Counsel for Kentucky Utilities Company*

4907-6285-5997.4