

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

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF</b>	)	
<b>KENTUCKY UTILITIES COMPANY</b>	)	
<b>FOR AN ADJUSTMENT OF ITS</b>	)	<b>CASE NO. 2025-00113</b>
<b>ELECTRIC RATES AND APPROVAL</b>	)	
<b>OF CERTAIN REGULATORY AND</b>	)	
<b>ACCOUNTING 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 Commission Staff’s (“PSC”) post-hearing data request Item Nos. 1(a), 8, 30, 33, 34, 52, and 54.

**Confidential Personal Information (KRS 61.878(1)(a))**

1. The Kentucky Open Records Act exempts from disclosure certain private and personal information.<sup>1</sup>

2. In response to PSC Item No. 33, the Company is providing an Excel file that contains confidential personal and private information, including customer and potential customer names and information about potential new projects and expansions. The identification of specific customers and customer data, including potential expansion plans that may not be public, is personal information that should not be in the public domain.<sup>2</sup> Therefore, KU respectfully requests

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

<sup>2</sup> See, e.g. *Electronic Tariff Filing of Louisville Gas and Electric Company to Revise its Local Gas Delivery Service Tariff*, Case No. 2024-00125, Order (Ky. PSC Sep. 13, 2024) (granting confidential treatment to information identifying LG&E’s potential customers pursuant to KRS 61.878(1)(a)).

that the Commission protect the personal information contained in the Company's responses to PSC Item No. 33 from public disclosure.

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

3. 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>3</sup> Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

***BOSK Special Contract Information***

4. KU is requesting confidential protection for the proprietary information included as part of its response to PSC Item Nos. 1(a), 8, and 54. Specifically, the Company is requesting confidential protection for the demand rates, information that could be used to determine the demand rates, and other information related to the Company's special contract with BlueOval SK, LLC ("BOSK").

5. The BOSK special contract demand rates are the product of extensive negotiations with BOSK and constitute sensitive financial information meriting confidential treatment. Specifically, the negotiated demand rates contained in the special contract are a product of numerous factors unique to BOSK, including the expected load profile of the project, variable cost coverage and contribution to fixed costs, and the size of the customer's load.

6. Special contract 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

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<sup>3</sup> KRS 61.878(1)(c)(1).

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 previously granted confidential treatment to commercially sensitive information, including demand rates, contained in KU's special contract with BOSK, and has regularly granted confidential protection for special contract rate information to prevent utility customers from gaining unfair commercial advantage in future negotiations with utilities.<sup>4</sup>

7. For these reasons, KU requests confidential treatment for the special contract information contained in PSC Item Nos. 1(a), 8, and 54.

### ***Commercially Sensitive Customer Information***

8. In response to PSC Item No. 33, KU is providing details of projects in its economic development pipeline. This information includes customer and potential customer names, details of those customers' potential expansions and new projects, and the location of said expansions and projects. If this information is publicly disclosed, competitors of KU's customers and potential customers would be able to identify confidential expansion and construction plans, to the potential detriment of the Company's customers and potential customers. Public access to this information would therefore impact the Company's ability to negotiate with prospective customers and could harm KU's ability to attract future economic development. The Commission has previously granted confidential treatment to similar information from customers and potential customers in

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<sup>4</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 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").

the past.<sup>5</sup> For these reasons, KU requests that the Commission grant confidential protection for the economic development information contained in the Company's response to PSC Item No. 33.

### ***Third-Party Financial Services Agreement***

9. The services agreement being filed as an attachment to PSC Item No. 34 contains commercially sensitive terms and conditions regarding the structure, pricing, data security obligations, and respective obligations of the parties under the agreement.

10. Public disclosure of the information contained in the services agreement would give KU's contractors, vendors, and competitors access to the Company's cost parameters and insight into the Company's contracting practices. The performance terms, pricing, security obligations, and conditions of this agreement are the product of extensive negotiations by the parties. Public access to this information, therefore, would likely impact KU's ability to effectively negotiate contracts with potential vendors and contractors in the future, which would likely increase costs for third-party services.<sup>6</sup> Because such costs will ultimately be included in KU's rates, any such commercial harms would result in direct harm to the Company's customers. For these reasons, the Company requests that the Commission grant confidential protection to the financial services contract attached to PSC Item No. 34.

### ***Detailed Executive Salary Information***

11. The attachment to PSC Item No. 52 provides detailed information about the components of the Company's executive compensation, including specific benefit information.

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<sup>5</sup> See *Electronic Application of Kentucky Power Company for (1) a General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) a Securitization Financing Order; and (5) All Other Required Approvals and Relief*, Case No. 2023-00159, Order (Ky. PSC Sep. 12, 2023) (granting confidential treatment to potential customer names, projected load, and other identifiers).

<sup>6</sup> *Electronic Application of Duke Energy Kentucky, Inc. for an Order Declaring the Construction of Solar Facilities is an Ordinary Extension of Existing Systems in the Usual Course of Business*, Case No. 2020-00385, Order at 3 (Ky. PSC Aug. 8, 2023) (granting confidential treatment to pricing information and vendor procedures contained in negotiated agreements).

This granular information is not in the public record and disclosure could disadvantage the Company for multiples reasons.

12. First, disclosure of this granular information provides insight into the Company's process for determining compensation for executives. The Company has spent time and resources to develop its compensation strategies and this information should not be publicly available to the Company's competitors. Competitors could use this knowledge to benchmark their own compensation structures, identify perceived weaknesses, and tailor offers to lure talent away from the Company. This transparency into the Company's internal decision-making erodes the Company's ability to maintain a competitive edge in attracting and retaining leadership.

13. Second, disclosure of the granular information could provide competitors valuable information in recruiting executives away from the Company. By understanding the precise mix of base salary, incentives, and specific benefits, competitors can craft highly targeted compensation packages designed to exceed the Company's offerings. This creates a direct risk of executive attrition, which could negatively impact operations and increase costs for the Company and its customers.

14. Third, current and prospective executives could obtain an advantage in negotiating their compensation with the Company if this information is disclosed. Access to detailed compensation data for other executives could provide executives with a "floor" for future negotiations. This could lead to inflated compensation costs and ultimately higher expenses for customers.

15. The Company is familiar with the Commission's long-standing precedent denying confidential treatment to executive compensation and its direction that "it will not look kindly on

subsequent motions for confidential treatment of executive compensation.”<sup>7</sup> For that reason, the Company did not seek confidential protection of the executive compensation information it provided with its Application in this proceeding and in response to PSC 1-41. However, the Company respectfully requests the Commission consider the granularity of the information (including the individual names of executives, some of whom have retired) the Company is providing in response to PSC Item No. 52 and grant confidential protection because disclosure could disadvantage the Company and its customers.

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

16. 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 also requesting confidential treatment for certain individualized medical insurance information for Company officers produced in attachments to KU’s responses to PSC Item Nos. 30 and 52. This information includes individualized health, dental, vision, and life insurance coverage elections by executives and their families.

17. Regulations promulgated for the implementation of HIPAA provide for the protection of an individual’s “protected health information” and “individually identifiable health information.”<sup>8</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

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<sup>7</sup> *Electronic Application of Kentucky Power Company for (1) A General Adjustment of Its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) A Securitization Financing Order; and (5) All Other Required Approvals and Relief*, Case No. 2023-00159, Order (Ky. PSC Oct. 2, 2023).

<sup>8</sup> 45 CFR § 160.103.

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>9</sup>

18. The individualized medical insurance information provided in response to Item No. 30 and 52 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 with other information in this proceeding to identify individual employees’ health coverage elections, medical issues, and other protected health information.<sup>10</sup>

19. For the reasons stated, the Company respectfully requests the protection of personally identifiable medical benefits information contained in its response to PSC Item Nos. 30 and 52. The Company requested confidential protection for the same reason for information they provided in response to PSC 1-41, which the Commission has not ruled upon yet.

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

20. The information for which KU is seeking confidential treatment is not known outside of KU, except for its counsel and vendors. It is not disseminated within KU except to those employees with a legitimate business need to know the information and is generally recognized as confidential and proprietary information in the energy industry.

21. 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.

22. In compliance with 807 KAR 5:001, Section 13, KU is providing written notification that the attachments to PSC Item Nos. 1(a), 34 and 52 are confidential in full.

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<sup>9</sup> *Id.*

<sup>10</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)).*

23. For the attachments to the Company's responses to PSC Item Nos. 8, 30, 33, and 54 which are not entirely confidential, the Company is filing with the Commission one electronic copy that identifies with redactions the information for which confidential protection is sought. In accordance with 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.

24. Due to the sensitive nature of the HIPAA information provided in response to Item Nos. 30 and 52, 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.

25. KU will upload the confidential information 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.

26. 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 regarding this matter.<sup>11</sup>

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

Dated: November 25, 2025

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lindsey W. Ingram".

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<sup>11</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

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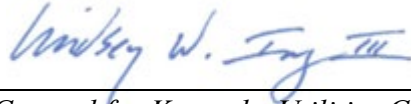
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### **CERTIFICATE OF SERVICE**

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 November 25, 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. Engle".

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*Counsel for Kentucky Utilities Company*

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