

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

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 seeks to provide to comply with certain filing requirements and as exhibits to certain testimonies filed with the Application.¹

Confidential Personal Information – Customer-Identifying Information (KRS 61.878(1)(a))

1. The Kentucky Open Records Act exempts from disclosure certain private and personal information.² KU is providing certain documents to satisfy the requirements of 807 KAR 5:001, Section 16(7)(c) at Tab 16. Customer identifying information is included in these documents. The workpapers provided in Exhibit CRS-7 also include major account information, which identifies certain large customers. The identification of specific customers is personal information that should not be placed in the public domain. The Commission previously granted confidential protection to similar information,³ including similar information contained in the

¹ The confidential information contained in particular items and exhibits, the statutory basis for confidentiality, and the extent of confidentiality (partial or entire) are listed in the document included herewith as **Attachment A**.

² KRS 61.878(1)(a).

³ *Application of Duke Energy Kentucky, Inc. for: (1) An Adjustment of the Electric Rates; (2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; (3) Approval of New Tariffs; (4) Approval of Accounting*

Company's last application for rate adjustment.⁴ Because information in these documents identifies specific customers, KU requests through this petition that the Commission protect the information from public disclosure.

2. The business plans for the Transmission and Distribution lines of business submitted as part of Tab 16 Section 16(7)(c) of the Filing Requirements contain projected revenues and estimated depancaking expenses for third parties that receive transmission services from the Company under its Open Access Transmission Tariff ("OATT"). These estimates reveal projected transmission revenues and depancaking expenses from OATT customers, which include other utilities and market participants both within and outside of the Commission's jurisdiction. Information identifying these specific OATT customers constitutes personal information under KRS 61.878(1)(a)⁵ and KU requests through this petition that the Commission protect this information from public disclosure.

Practices to Establish Regulatory Assets and Liabilities; and (5) All Other Required Approvals and Relief, Case No. 2017-00321, Order (Ky. PSC May 3, 2018) (granting confidential protection to specific customer account information, including account numbers and billing data); *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-000221, Order at 1-2 (Ky. PSC July 25, 2013) (granting confidential protection to customer names, account numbers, and usage information); *Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, a Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge*, Case No. 2012-0222, Order at 1-2 (Ky. PSC July 16, 2013) (granting confidential protection to "customer-identifying information such as customer names and account numbers"); see also *Application of Kentucky-American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year*, Case No. 2012-00520, Order at 4 (Ky. PSC Aug. 1, 2014) (granting confidential protection to the response of Staff Item 77, which contained customer-identifying information like names, account numbers, balance history, and the names of customers qualifying for discounted service); *DPi Teleconnect, LLC v. Bellsouth Telecommunications, Inc. d/b/a AT&T Kentucky*, Case No. 2005-00455, Letter from Stephanie Stumbo to Mary Keyer (Ky. PSC May 29, 2008).

⁴ *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. 2020-00349 Order at 5 (Ky. PSC Dec. 7, 2021).

⁵ *Id.*; *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 at 5 (Ky. PSC Dec. 10, 2018).

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.”⁶

4. As further described below, the Company is requesting confidential protection for the proprietary information included in Tabs 4, 16, and 66, and Exhibits AMF-5, BJM-2, DJ-1, and CRS-7.

OATT Customer Revenue Projections and Depancaking Expenses

5. The business plans for the Transmission and Distribution lines of business submitted as part of Tab 16 Section 16(7)(c) of the Filing Requirements are also confidential because they contain projected revenues and estimated depancaking expenses for market participants that receive transmission services from the Company under its OATT. These estimates, which are based on current reservation data obtained from the Midcontinent Independent System Operator (“MISO”), provide projected revenues and depancaking expenses from OATT customers, including utilities and other market participants both within and outside of the Commission’s jurisdiction. The disclosure of this customer specific usage information would result in competitive harms for the Company and other market participants.⁷

Special Contract Demand Rates

6. Tabs 4 and 66 contain special contract demand rates, which 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

⁶ KRS 61.878(1)(c)(1).

⁷ *Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order at 2 (Ky. PSC May 2, 2019) (granting confidential treatment to customer specific transmission revenue information).

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.

7. 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.⁸

Commodity Price Expectations

8. Exhibit CRS-7 contains projections of what the Company expects to pay and receive for commodities they buy and sell, e.g., fuel, coal combustion residuals, ammonia, and emission allowances. If the Commission grants public access to this information, KU could be disadvantaged in negotiating contracts to buy or sell these commodities in the future. The Company 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

⁸ *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”).

prices or adversely affected the Company's off-system energy sales. The Commission has previously granted requests to protect this information from public disclosure.⁹

Responses to RFP Response Data

9. Exhibit CRS-7 also contains confidential request for proposals ("RFP") response data. Confidential protection of RFP responses is necessary because disclosure would disrupt the competitive bid process. Public disclosure would place the Company at a considerable disadvantage when negotiating future contracts and could disadvantage them in the wholesale energy market. Furthermore, public disclosure would provide insight into the Company's evaluation of bids to the detriment of the Company and its ratepayers. Public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. Commission has previously granted requests to protect this information from public disclosure.¹⁰

Proprietary Information and Projections from Third Parties

10. Exhibit CRS-7 also contains proprietary information and projections obtained from third parties. These third parties include S&P Global, Itron, and others. Exhibit BJM-2 includes proprietary information from Black & Veatch. As players in competitive markets, these third parties do not want confidential technical information or projections they have made to be publicly disclosed. If this proprietary information is disclosed, these parties and other third-party suppliers of the same kinds of information and analyses may be less willing to supply reports to the Company in the future. Diminishing the Company's ability to receive this information would harm both the

⁹ See, e.g., Case No. 2022-00402, Order (Ky. PSC Aug. 17, 2023); Case No. 2022-00402, Order (Ky. PSC Aug. 31, 2023); Case No. 2022-00402, Order (Ky. PSC Nov. 20, 2023).

¹⁰ See, e.g., *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-Fired Generation Unit Retirements*, Case No. 2022-00402, Order (Ky. PSC Aug. 17, 2023); Case No. 2022-00402, Order (Ky. PSC Aug. 31, 2023); Case No. 2022-00402, Order (Ky. PSC Nov. 20, 2023).

Company and its customers. This information should therefore be afforded confidential protection to protect the Company and its customers. The Commission has previously granted requests to protect this information from public disclosure.¹¹

Unit Maintenance Schedules

11. Exhibit CRS-7 also includes unit maintenance schedules, the disclosure of which would unfairly advantage the Company's competitors for wholesale power sales. This information would allow the Company's competitors to know when generating plants will be down for maintenance and thus know a crucial input into the Company'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 would be able to manipulate the price of power bid to the Company to maximize their revenues, thereby causing higher prices for the Company's customers and giving a commercial advantage to KU's competitors. The Commission has previously granted requests to protect this information from public disclosure.¹²

Components of Long-Term Service Agreements

12. Exhibit CRS-7 also includes construction costs, vendor names, and cost components of long-term service agreements that are being negotiated. Public disclosure of this information would reveal the procedures followed and the factors and inputs considered by the Company in evaluating the viability of possible generation projects. Public disclosure would give the Company's contractors, vendors, and competitors access to the Company's cost and

¹¹ See, e.g., *Electronic Application of Duke Energy Kentucky, Inc. for an Adjustment to Rider NM Rates and for Tariff Approval*, Case No. 2023-00413, Order at 3, 12-13 (Ky. PSC May 17, 2024) (granting confidential protection to proprietary third party reports and information); Case No. 2022-00402, Order (Ky. PSC Aug. 31, 2023); Case No. 2022-00402, Order (Ky. PSC Nov. 20, 2023).

¹² See, e.g., *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas & Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-Fired Generating Unit Retirements*, Case No. 2022-00402, Order (Ky. PSC Aug. 17, 2023).

operational parameters, and insight into the Company’s contracting practices. Public access to this information would impact the Company’s ability to negotiate with prospective contractors and vendors, and could harm the Company’s competitive position in the wholesale power market. 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 the Company’s generation asset procurement process or off-system energy sales. In addition, certain supply-side information concerns interruptible contract information specific to identifiable customers of KU and should be protected as sensitive commercial information that could cause harm the Company and its customers if disclosed.

Litigation Information

13. The lead-lag study provided in Exhibit AMF-5 includes in the O&M analyses certain amounts and information about settlement of lawsuits. If this information is disclosed, KU anticipates the settlement amounts would establish a specific target for settlement of pending litigation and negatively impact settlement in future litigation. That data point could impair KU’s ability to negotiate settlement terms that are advantageous to KU.

Confidential Critical Energy Infrastructure Information – KRS 61.878(1)(m)

14. Critical energy infrastructure information (“CEII”) is protected from public disclosure under KRS 61.878(1)(m)(1). The Kentucky Open Records Act exempts from public disclosure certain information that has a reasonable likelihood of threatening public safety by exposing a vulnerability, such as infrastructure records that disclose the “location, configuration, or security of critical systems,” or “detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems.”¹³

¹³ KRS 61.878(1)(m)(1)(f).

15. In light of modern utilities' reliance on critical technology systems, the Commission has determined that disclosing information about utilities' technology infrastructure and cybersecurity protocols has a reasonable likelihood of exposing infrastructure vulnerabilities and threatening public safety.¹⁴

16. Exhibit DJ-1 to Dan Johnson's Direct Testimony contains confidential information regarding the state of the Company's IT infrastructure, as well as planned improvements to the Company's cybersecurity protocols. If such information is made available in the public record, hostile third-parties may discover vulnerabilities in the Company's critical technology systems. Knowledge of such vulnerabilities may allow a person to cause public harm and threaten public safety by disrupting the electric transmission system.

The Confidential Information Subject to This Petition

17. 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.

18. 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.

¹⁴ See e.g. *Consideration of the Implementation of Smart Grid and Smart Meter Technologies*, Case No. 2012-00428, Order at 29 (Ky. PSC Apr. 13, 2016) ("Given the sensitivity of cybersecurity concerns, the utilities should be allowed to keep their procedures confidential."); *Electronic Investigation of the Operational Capacity and Infrastructure of Grayson Rural Electric Cooperative Corporation*, Case No. 2020-00018, Order at 3 (Ky. PSC Apr. 14, 2023) (Granting confidential treatment to exhibits that "contain ample information necessary to create an opportunity to disrupt public utility critical technology systems via cyber-attack that could negatively impact the electric grid.").

19. 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.¹⁵

20. In compliance with 807 KAR 5:001, Section 13, KU is providing written notification that Exhibit DJ-1 is confidential in full.

21. For Tabs 4, 16, and 66, and Exhibits AMF-5, BJM-2, and CRS-7, 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.

22. Due to the serious security concerns related to the disclosure of CEII, the Companies request that the CEII provided in response to Exhibit DJ-1 remain confidential indefinitely. For all other requests for confidential protection, 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.

¹⁵ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

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Respectfully submitted,



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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 May 30, 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. Engstrom". The signature is fluid and cursive, with the last name "Engstrom" being more prominent.

Counsel for Kentucky Utilities Company