

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

THE APPLICATION OF KENTUCKY POWER)
COMPANY FOR A GENERAL ADJUSTMENT) CASE NO. 2009-00459
OF ELECTRIC RATES)

* * * * *

MOTION FOR CONFIDENTIAL TREATMENT

Kentucky Power Company ("Kentucky Power" or "the Company"), moves the Commission pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 7, for an Order granting confidential treatment to information included in exhibits to the rebuttal testimony of Company witness Scott C. Weaver.

The exact same exhibits and information the Company seeks confidential treatment for in this motion is already part of pending requests for confidentiality before the Kentucky Public Service Commission in this case and in case number 2009-00545 as filed by the Company on April 30, 2010. There is no difference in the request other than the case number.¹ In support of its Motion for Confidential Treatment Kentucky Power states the information for which confidential treatment is being sought ("Confidential Information") is:

1. SCW-1R- The portions of a graph and supporting data to form a comparison of wind costs to an internal estimated installed cost, transmission costs, the full load heat rate, variable O&M and fixed O&M of natural gas combined cycle and combustion turbine alternatives. This information was initially included in a request for confidential treatment on

¹ In its filing in Case Number 2009-00545, Kentucky Power inadvertently identified the contents of Exhibit 1 as Exhibit 2 and the contents of Exhibit 2 as Exhibit 1.

April 27, 2010 in response to the Kentucky Industrial Utility Customers Question 15 in its first set of discovery (KIUC 1-15) in this case.

2. SCW-2R- A proposed biomass facility in Kentucky's preliminary target price for energy in connection with its proposed biomass project. This information was initially included in a request for confidential treatment on April 27, 2010 as part of a supplemental answer to the Attorney General's third question is his second set of discovery in this case.

3. Pursuant to 807 KAR 5:001, Section 7, a confidential copy of each exhibit for which confidential treatment is sought is filed under seal with this motion. In addition, redacted copies of the exhibits are filed with the Rebuttal Testimony.

Statutory Standard

4. KRS 61.878(1)(c)(1) excludes from the public disclosure requirements of the Open Records Act:

"[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

The Confidential Information satisfies this exception.

The Information Is Generally Recognized As Confidential And Proprietary

5. The Company attached the previous filings and affidavits seeking confidential treatment of the same documents. The previous filing in this case includes the affidavit of Scott C. Weaver in support of the confidentiality of the exhibit labeled in the rebuttal as SCW-1R. The initial filing in case number 2009-00545 includes the affidavit of Jay F. Godfrey in

support of the confidentiality of the exhibit labeled in the rebuttal as SCW-2R.² As Mr. Godfrey and Mr. Weaver testify, the Confidential Information is generally considered confidential and proprietary. Affidavit of Jay F. Godfrey at ¶ 4 (“Godfrey Affidavit”), Affidavit of Scott C. Weaver at ¶ 5 (“Weaver Affidavit”). The Confidential Information is not available to or ascertainable by, persons outside Kentucky Power or American Electric Power Service Corporation (“AEPSC”) (Collectively, “the Companies”) by proper means other than on a confidential basis. Godfrey Affidavit at ¶ 9, Weaver Affidavit at ¶ 11. Indeed, the Confidential Information derives economic value from the fact it is not generally known to persons who can obtain value from its disclosure. Godfrey Affidavit at ¶ 9, Weaver Affidavit at ¶ 11.

6. In light of the confidential and proprietary nature of the information AEPSC and Kentucky Power take all reasonable efforts to protect it from public disclosure. Godfrey Affidavit at ¶ 10, Weaver Affidavit at ¶ 12. Among the measures taken are limiting access to this type of information within the companies to only those persons with a legitimate need to access the information, protecting against disclosure outside the Companies, and entering into confidentiality agreements to protect against disclosure by persons outside the Companies who are afforded access for legitimate purposes. Id.

Disclosure Of The Confidential Information Will Result in An Unfair Competitive Advantage To The Competitors Of Kentucky Power

7. The Confidential Information, if disclosed to competitors of the Company, or otherwise made publicly available, would provide an unfair competitive advantage to competitors of the Company. The Confidential Information therefore is entitled to protection

² The Company refers to and incorporates by reference the affidavits already on file with the Commission in this case and Case No. 2009-00545.

from disclosure by the Commission. Specifically, the public disclosure of the Confidential Information would be detrimental to Kentucky Power in that it would:

(a) Provide the public the Company's competitive assumptions and/or negotiated contract terms concerning a natural gas combined cycle and combustion turbine (SCW-1R).

(b) Establish certain benchmarks in future negotiations, thereby potentially increasing costs incurred by customers of Kentucky Power and its affiliates (SCW-1R). Weaver Affidavit at ¶ 7.

(c) Permit other purchasers to benefit from Kentucky Power's efforts in negotiating the REPA and "cherry-pick" the most advantageous contracts and terms to Kentucky Power's competitive disadvantage (SCW-1R). Weaver Affidavit at ¶ 7.

(d) Increasing the cost of these sources (SCW-2R). Godfrey Affidavit at ¶ 7.

(e) Disclosure could discourage other generators from interacting with the Company to discuss future potential sources from suppliers, because the Confidential Information was provided based upon the understanding the information would not be publicly disclosed. Godfrey Affidavit at ¶ 8.

8. The renewable energy market is extremely competitive. Weaver Affidavit at ¶ 6. Information such as proposed pricing of a new generator could affect the bargaining between potential sellers and purchasers, and provide competitors of Kentucky Power an unfair competitive advantage. Godfrey Affidavit at ¶ 6, Weaver Affidavit at ¶ 7. The Commission previously recognized that terms of power supply agreements that included pricing were

confidential in this case in a Commission letter dated February 11, 2010 and filed in this docket on February 12, 2010.

Wherefore, Kentucky Power Company respectfully requests the Commission grant confidential treatment to the information described in Paragraph 1 of this Motion.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by first class mail, postage prepaid, upon the following parties, this 14th day of May, 2010.

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