

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matter of:

FEB 17 2010

AN EXAMINATION OF THE )  
APPLICATION OF THE FUEL )  
ADJUSTMENT CLAUSE OF )  
KENTUCKY UTILITIES COMPANY )  
FROM MAY 1, 2009 THROUGH )  
OCTOBER 31, 2009 )

PUBLIC SERVICE )  
COMMISSION )  
CASE NO. 2009-00507

PETITION OF KENTUCKY UTILITIES COMPANY  
FOR CONFIDENTIAL PROTECTION

Kentucky Utilities Company (“KU”), pursuant to 807 KAR 5:001, Section 7, respectfully petitions the Commission to classify as confidential and protect from public disclosure certain information provided by KU in response to Question Nos. 19 and 20 of the Commission’s data requests, as contained in Appendix A of the Commission’s Order dated January 27, 2010. KU requests confidential protection for coal bid analysis information provided in response to Question Nos. 19 and 20). In support of this Motion, KU notes that the Commission treated the same kind of information as confidential in KU’s last six-month fuel adjustment clause review proceeding. (See Letter from Executive Director Jeff Derouen re KU’s Petition for Confidential Protection, Case No. 2009-00287 (December 11, 2009), attached hereto as Attachment 1.)

In further support of this Motion, KU states as follows:

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure information confidentially disclosed to it to the extent that open disclosure would permit an unfair commercial advantage to competitors of the entity disclosing the information to the Commission. See KRS 61.878(1)(c). Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. Disclosure of the factors underlying KU's bid analysis/selection process would damage KU's competitive position and business interests. This information reveals the business model the Company uses – the procedure it follows and the factors/inputs it considers – in evaluating bids for coal supply. If the Commission grants public access to the information requested in Question Nos. 19 and 20, potential bidders could manipulate the bid solicitation process to the detriment of KU and its ratepayers by tailoring bids to correspond to and comport with KU's bidding criteria and process. As noted above, the Commission has treated such information as confidential in the past. (*See* Attachment 1, Letter from Executive Director Jeff Derouen re KU's Petition for Confidential Protection, Case No. 2009-00287 (December 11, 2009)).

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

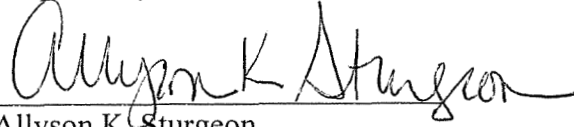
4. KU does not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, to intervenors with legitimate interests in reviewing the same for the purpose of participating in this case.

5. In accordance with the provisions of 807 KAR 5:001, Section 7, KU is filing with the Commission one copy of the Confidential Information highlighted and ten (10) copies without the Confidential Information.

**WHEREFORE**, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection to the information designated as confidential for a period of five years from the date of filing the same.

Dated: February 17, 2010

Respectfully submitted,

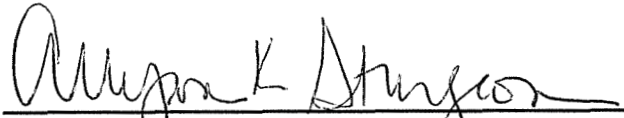


Allyson K. Sturgeon  
Senior Corporate Counsel  
E.ON U.S. LLC  
220 West Main Street  
Louisville, Kentucky 40202  
Telephone: (502) 627-2088

Counsel for Kentucky Utilities Company

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Petition for Confidential Protection was served this 17th day of February 2010, upon the Kentucky Public Service Commission.



Counsel for Kentucky Utilities Company

# **ATTACHMENT 1**



Steven L. Beshear  
Governor

Leonard K. Peters  
Secretary  
Energy and Environment Cabinet

Commonwealth of Kentucky  
**Public Service Commission**  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
Fax: (502) 564-3460  
psc.ky.gov

David L. Armstrong  
Chairman

James W. Gardner  
Vice Chairman

Charles R. Borders  
Commissioner

December 11, 2009

E.ON U.S. LLC  
Attention: Allyson K. Sturgeon  
220 West Main Street  
Louisville, Kentucky 40202

Re: Kentucky Utilities Company  
Petition for Confidential Protection received 9/10/09  
PSC Reference – Case No. 2009-00287

Dear Ms. Sturgeon:

The Public Service Commission has received the Petition for Confidential Protection you filed on September 10, 2009 on behalf of Kentucky Utilities Company ("KU") to protect certain information filed with the Commission as confidential pursuant to Section 7 of 807 KAR 5:001 and KRS 61.870. The information you seek to have treated as confidential is identified as information contained in KU's Responses to Commission Data Request Nos. 12(a) and 19 contained in Appendix A of the Commission's Order dated August 20, 2009. The information is more specifically described as the "Weir Report" which contains coal suppliers costs for complying with the "Miner Act", and coal bid analysis procedure used for evaluating bids for coal supply.

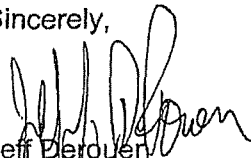
Your justification for having the Commission handle this material as confidential is that the public disclosure of the information would compromise KU's competitive position in the industry and result in an unfair commercial advantage to its competitors.

Based on a review of the information and pursuant to KRS 61.878 and 807 KAR 5:001, Section 7, the Commission has determined that the information you seek to keep confidential is of a confidential or proprietary nature, which if publicly disclosed would permit an unfair commercial advantage to KU's competitors. Therefore, the information requested to be treated as confidential **meets the criteria for confidential protection** and will be maintained as a nonpublic part of the Commission's file in this case. The procedure for usage of confidential materials during formal proceedings may be found at Section 7(8) of 807 KAR 5:001.

Ms. Sturgeon  
December 11, 2009  
Page 2

If the information becomes publicly available or no longer warrants confidential treatment, Kentucky Utilities Company is required by Section 8(9)(a) of 807 KAR 5:001 to inform the Commission so that the information may be placed in the public record.

Sincerely,



Jeff Derquen  
Executive Director

kg/

cc: Parties of Record