

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In Re:

**PETITION OF KINGSPORT POWER COMPANY
FOR APPROVAL OF DEMAND RESPONSE
PROGRAMS AND ASSOCIATED DEMAND
RESPONSE TARIFFS**

DOCKET No. 12-00012

In Re:

**PETITION OF EASTMAN CHEMICAL
COMPANY AND AIR PRODUCTS AND
CHEMICALS, INC., FOR EXPEDITED REVIEW
TO ALLOW CERTAIN END USE CUSTOMERS
OF KINGSPORT POWER COMPANY TO
PARTICIPATE IN PJM INTERCONNECTION
DEMAND RESPONSE PROGRAMS**

DOCKET No. 12-00026

PROTECTIVE ORDER

To expedite the flow of filings, discovery, exhibits and other materials, and to facilitate the prompt resolution of disputes regarding confidentiality of the material, adequately protect material entitled to be kept confidential and to ensure that protection is afforded only to material so entitled, and the parties being in agreement as to the entry of this Protective Order, the Hearing Officer, as appointed by the Tennessee Regulatory Authority ("TRA"), hereby orders the following:

1. For the purpose of this Protective Order (the "Order"), proprietary or confidential information, hereinafter referred to as "CONFIDENTIAL INFORMATION" shall mean documents and information in whatever form which the producing party, in good faith, deems to

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1. For the purpose of this Protective Order (the "Order"), proprietary or confidential information, hereinafter referred to as "CONFIDENTIAL INFORMATION" shall mean documents and information in whatever form which the producing party, in good faith, deems to

contain or constitute trade secrets, confidential commercial information, confidential research, development, financial statements, confidential data of third parties, or other commercially sensitive information, and which has been specifically designated by the producing party. A "producing party" is defined as the party creating the confidential information as well as the party having actual physical possession of information produced pursuant to this Order. All summaries, notes, extracts, compilations or other direct or indirect reproductions from or of any protected materials, shall be entitled to protection under this Order. Documents containing CONFIDENTIAL INFORMATION shall be specifically marked as "CONFIDENTIAL" on the cover. Any document so designated shall be handled in accordance with this Order. The provisions of any document containing CONFIDENTIAL INFORMATION may be challenged under Paragraph 11 of this Order.

2. Any individual or company subject to this Order, including producing parties or persons reviewing CONFIDENTIAL INFORMATION, shall act in good faith in discharging their obligations hereunder. Parties permitted to intervene in this matter after the date of entry of this Protective Order shall be subject to the terms and conditions of this Protective Order and will be allowed access to CONFIDENTIAL INFORMATION under the conditions prescribed herein.

3. CONFIDENTIAL INFORMATION shall be used only for the purposes of this proceeding, and shall be expressly limited and disclosed only to the following persons:

- (a) Counsel of record for the parties and other legal counsel for the parties in this case and associates, secretaries and paralegals actively engaged in assisting counsel of record in this proceeding;
- (b) TRA Directors and members of the staff of the TRA;
- (c) officers, directors, or employees of the parties, including employees of the Office of Tennessee Attorney General; provided, however, that CONFIDENTIAL INFORMATION shall be shown only to those persons

having a need to know;

- (d) Representatives of the parties who need to know because they are actively engaged in assisting counsel of record in preparing for this proceeding; and
- (e) Outside consultants and expert witnesses employed or retained by the parties or their counsel, who need access to CONFIDENTIAL INFORMATION solely for evaluation, testing, testimony, preparation for trial or other services related to this docket.

4. Prior to disclosure of CONFIDENTIAL INFORMATION to any person under subsections 3 (a), (b) or (c), the counsel representing the party who is to receive the CONFIDENTIAL INFORMATION shall provide a copy of this Order to the recipient, who shall be bound by the terms of this Order. Prior to disclosure of CONFIDENTIAL INFORMATION to any person under subsections 3 (d) or (e), counsel shall provide a copy of this Order to such recipient, who shall sign the Nondisclosure Statement in the form of that attached to this Order attesting that he or she has read a copy of this Order, that he or she understands and agrees to be bound by the terms of this Order, and that he or she understands that unauthorized disclosure of the documents labeled "CONFIDENTIAL" constitutes a violation of this Order. Counsel of record for each party shall provide the producing party a copy of each such Nondisclosure Statement and shall keep the Nondisclosure Statements executed by the parties' experts or consultants on file in their respective offices.

5. If any party or non-party subject to this Order inadvertently fails to designate documents as CONFIDENTIAL in accordance with the provisions of this Order when producing the documents, this failure shall not constitute a waiver of confidentiality, provided the party or non-party who has produced the document shall notify the recipient of the document in writing within fifteen (15) days of discovery of such inadvertent failure to designate the document as

CONFIDENTIAL. At that time, the recipients will immediately treat the subject document as CONFIDENTIAL. In no event shall the TRA, or any party to this Order, be liable for any claims or damages resulting from the disclosure of a document provided while not so labeled as "CONFIDENTIAL." An inadvertent failure to designate a document as CONFIDENTIAL, shall not, in any way, affect the TRA's determination as to whether the document is entitled to CONFIDENTIAL status.

6. If any party or non-party subject to this Order inadvertently fails to designate documents as CONFIDENTIAL in accordance with the provisions of this Order when producing such documents and the failure is not discovered in time to provide a fifteen (15) day notification to the recipient of the confidential nature of the documents referenced in the paragraph above, the failure shall not constitute a waiver of confidentiality and a party by written motion or by oral motion at a Pre-Hearing Conference or at the Hearing on the merits may request designation of the documents as CONFIDENTIAL, and if the motion is granted by the Hearing Officer or the Authority, the recipients shall immediately treat the subject documents as CONFIDENTIAL. The Tennessee Regulatory Authority or the Hearing Officer may also, at her discretion, either before or during the Pre-Hearing Conference or Hearing on the Merits of the case, allow information to be designated CONFIDENTIAL and treated as such in accordance with the terms of this Order.

7. Any papers filed in this proceeding that contain, quote, paraphrase, compile or otherwise disclose documents covered by the terms of this Order, or any information contained therein, shall be filed and maintained in the TRA Docket Room in sealed envelopes marked CONFIDENTIAL and labeled to reflect the style of this proceeding, the docket number, the contents of the envelope sufficient to identify its subject matter and this Protective Order. The

envelopes shall be maintained in a locked filing cabinet. The envelopes shall not be opened or their contents reviewed by anyone except upon order of the TRA or the Hearing Officer after due notice to counsel of record. Notwithstanding the foregoing, the Directors and the Staff of the TRA may review any paper filed as CONFIDENTIAL without obtaining an order of the TRA or the Hearing Officer provided the Directors and Staff maintain the confidentiality of the paper in accordance with the terms of this Order.

8. Documents, information and testimony designated as CONFIDENTIAL in accordance with this Order, may be used in testimony at the Hearing of this proceeding and offered into evidence or used in any hearing related to this action in a manner that protects the confidentiality of the information, subject to the Tennessee Rules of Evidence and to such future orders as the TRA or the Hearing Officer may enter. Any party intending to use documents, information, or testimony designated CONFIDENTIAL shall inform the producing party and the TRA or the Hearing Officer prior to the Hearing on the Merits of the case, of the proposed use; and shall advise the TRA or the Hearing Officer and the producing party before use of the information during witness examinations so that appropriate measures can be taken by the TRA or the Hearing Officer to protect the confidential nature of the information.

9. Except for documents filed in the TRA Docket Room, all documents covered by the terms of this Order that are disclosed to the requesting party shall be maintained separately in files marked CONFIDENTIAL and labeled with reference to this Order at the offices of the requesting party's counsel of record, kept in a secure place and returned to the producing party pursuant to Paragraph 17 of this Order.

10. Nothing herein shall be construed as preventing any party from continuing to use and disclose any information (a) that is in the public domain, or (b) that subsequently becomes

part of the public domain through no act of the party, or (c) that is disclosed to it by a third party, where said disclosure does not itself violate any contractual or legal obligation, or (d) that is independently developed by a party, or (e) that is known or used by it prior to this proceeding. The burden of establishing the existence of (a) through (e) shall be upon the party attempting to use or disclose the information.

11. Any party may contest the designation of any document or information as CONFIDENTIAL by filing a Motion with the TRA or Hearing Officer as appropriate, for a ruling that the documents, information or testimony should not be so treated. All documents, information and testimony designated as CONFIDENTIAL, however, shall be maintained as such until the TRA or the Hearing Officer orders otherwise. A Motion to contest must be filed not later than fifteen (15) days prior to the Hearing on the Merits. Any Reply from the Company seeking to protect the status of their CONFIDENTIAL INFORMATION must be received not later than ten (10) days prior to the Hearing on the Merits and shall be presented to the Authority at the Hearing on the Merits for a ruling.

12. Nothing in this Order shall prevent any party from asserting any objection to discovery other than an objection based upon grounds of confidentiality.

13. Non-party witnesses shall be entitled to invoke the provisions of this Order by designating information disclosed or documents produced for use in this action as CONFIDENTIAL, in which event the provisions of this Order shall govern the disclosure of information or documents provided by the non-party witness. A designation of information as CONFIDENTIAL by a non-party witness may be challenged under Paragraph 11 of this Order.

14. No person authorized under the terms herein to receive access to documents, information, or testimony designated as CONFIDENTIAL shall be granted access until such

person has complied with the requirements set forth in Paragraph 4 of this Order.

15. Any person to whom disclosure or inspection is made in violation of this Order shall be bound by the terms of this Order.

16. Upon entry of a final order in this proceeding, and the conclusion of any appeals resulting therefrom, all the filings, exhibits and other materials and information designated CONFIDENTIAL and all copies thereof shall be returned to counsel for the party who produced (or originally created) the filings, exhibits and other materials, or destroyed within thirty (30) days. Notwithstanding any provision herein to the contrary, the requirement of this paragraph shall become operative immediately upon any intervenor who withdraws or otherwise ceases to be a party to the case, even though the case itself may continue to be pending. Subject to the requirements of Paragraph 7 above, the TRA shall retain copies of information designated as CONFIDENTIAL as may be necessary to maintain the record of this case intact. Counsel who received the filings, exhibits and other materials, designated as CONFIDENTIAL shall certify to counsel for the producing party that all the filings, exhibits and other materials, plus all copies or extracts, notes or memorandums from the filings, exhibits and other materials, and all copies of the extracts from the filings, exhibits and other materials thereof have been delivered to counsel for the producing party or destroyed and that any electronic copies of CONFIDENTIAL INFORMATION received or mentioned by the receiving party have been eliminated.

17. After termination of this proceeding, the provisions of this Order relating to the confidential nature of CONFIDENTIAL INFORMATION, information and testimony shall continue to be binding upon parties herein and their officers, employers, employees, agents, and/or others unless this Order is vacated or modified.

18. Nothing herein shall prevent entry of a subsequent order, upon an appropriate

showing, requiring that any documents, information or testimony designated as CONFIDENTIAL shall receive protection other than that provided herein.

19. The Attorney General and his staff have authority to enter into Nondisclosure Agreements pursuant to Tenn. Code Ann. § 65-4-118 which are consistent with state and federal law, regulations and rules.

20. The Attorney General and his staff agree to keep CONFIDENTIAL INFORMATION in a secure place and will not permit same to be seen by any person who is not an employee of the State of Tennessee, the Office of Attorney General and Reporter, or a person who has signed a Nondisclosure Agreement.

21. The Attorney General and his staff may make copies of CONFIDENTIAL INFORMATION or any portion thereof to the extent permitted by state and federal law, regulations and rules, all notes utilizing supporting information shall be subject to the terms of this Order to the extent factual assertions are derived from the supporting information.

22. To the extent permitted by state law, the Attorney General will provide timely notice of filing or disclosure in the discharge of the duties of the Office of the Attorney General and Reporter, pursuant to Tenn. Code Ann § 10-7-504(a)(5)(C) or any other law, regulation or rule, so that the Company may take action relating to disclosure.

23. The obligations of the Attorney General and his staff under this Order are further subject to the state's Public Records Act and other open records statutes. Nothing in this Order is intended to violate or alter the state's Public Records Act or Freedom of Information Act ("FOIA"). In the event that the Attorney General or member of his staff is served with a subpoena, public records request, FOIA request, or other request that calls for the production of CONFIDENTIAL INFORMATION, the Attorney General will notify the producing party of the

existence of the subpoena, public records request, FOIA request, or other request, at least five (5) business days before responding to the request to the extent permitted by state law and orders of the TRA and/or Hearing Officer as long as the Attorney General or his staff is able to respond to the request within a reasonable time. Following the five (5) day notice period, the Attorney General or his staff may elect to wait to produce such information as allowed by state law in order to provide the producing party an opportunity to challenge said subpoena or request or to make arrangements to preserve the confidentiality of the CONFIDENTIAL INFORMATION.

24. The designation of any information, documents or things in accordance with this Order as constituting or containing CONFIDENTIAL INFORMATION and the Attorney General's or his staff's treatment of such material as CONFIDENTIAL INFORMATION in compliance with this Order is not an admission or agreement by the Attorney General or his staff that the material constitutes or contains CONFIDENTIAL INFORMATION and shall not be deemed to be either a waiver of the state's right to challenge such designation or an acceptance of such designation. The producing party agrees to designate information, documents or things provided to the Attorney General as CONFIDENTIAL INFORMATION if it has a good faith basis for the claim.

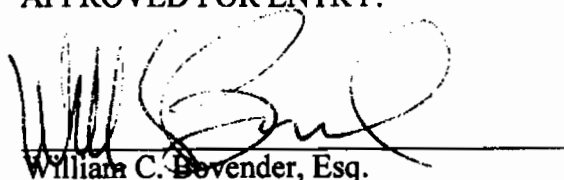
25. All information, documents and things designated as CONFIDENTIAL INFORMATION and produced in accordance with this Order may be disclosed in testimony or offered into evidence at any TRA or court hearing, trial, motion or proceeding of this matter, subject to the provisions of this Order, including paragraph 8, and the applicable Rules of Evidence.

26. Nothing in this Order is intended to restrict or alter federal or state laws, regulations or rules.

27. Any person who has signed a Nondisclosure Statement or is otherwise bound by the terms of this Order shall continue to be bound by this Order and/or Nondisclosure Statement even if no longer employed or engaged by the parties hereto, intervenors, if any, or the TRA.

Hearing Officer

APPROVED FOR ENTRY:



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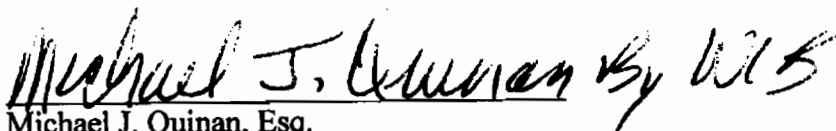
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NONDISCLOSURE STATEMENT

I have read the Protective Order entered in the above-captioned matters I understand and agree to abide and be bound by its terms. I understand that unauthorized disclosure of information or documents labeled "CONFIDENTIAL" will be a violation of the Protective Order.

DATE

NAME

STATE OF _____)

COUNTY OF _____)

Personally appeared before me, _____, a Notary Public,
_____, with whom I am personally acquainted, who acknowledged that
he/she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this _____ day of _____, 2012.

NOTARY PUBLIC

My Commission Expires:
