

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ADJUSTMENT OF GAS AND)
ELECTRIC RATES OF LOUISVILLE) CASE NO. 90-158
GAS AND ELECTRIC COMPANY)

O R D E R

This matter arising upon petition of Louisville Gas and Electric Company ("LG&E") filed July 23, 1990 pursuant to KRS 61.878(1)(a) and (b) for confidential protection of its response to Item 39 of the information request contained in the Commission's Order of June 29, 1990, on the grounds that the information consists of information of a personal nature, public disclosure of which would constitute an unwarranted invasion of personal privacy and on the grounds that public disclosure of the information is likely to cause significant competitive injury to LG&E, and it appearing to this Commission as follows:

By Order entered June 29, 1990, the Commission directed LG&E to respond to the information requests set forth in the Order. Item 39 of the Order requests LG&E to furnish a schedule reflecting the salaries and compensation of each executive officer for the test year and the preceding two calendar years. It is this information that LG&E seeks to protect from disclosure as confidential.

KRS 61.872(1) requires all public records to be open for inspection unless specifically exempted by law. The exemptions

from this requirement are contained in KRS 61.878. Subsection 1(a) of that section exempts from disclosure "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." This provision is intended to exempt from public disclosure any information contained in public records that relates the details of an individual's private life. Information is exempt from disclosure under this exception when the individual's privacy interest in the information outweighs the public's interest in the information.

Subsection 1(b) of KRS 61.878 also exempts information as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The purpose of KRS 61.878 is to protect as confidential certain types of information placed in the public record which the source of the information desires to keep from public scrutiny. Therefore, information which is already available to the public does not qualify for the exemption.

The information sought to be protected by LG&E consists of salaries paid to its executive officers. This identical information is filed annually with the Federal Energy Regulatory Commission and a copy of that filing is included in the annual report filed with this Commission and placed in the public record.

Therefore, the information is currently a matter of public record and is not entitled to protection.

This Commission being otherwise sufficiently advised,

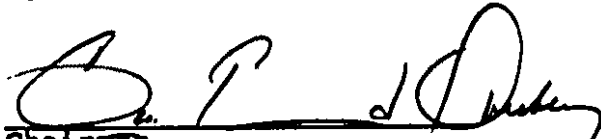
IT IS ORDERED that:


1. The petition for confidential protection of LG&E's responses to Item 39 to the information request contained in the Commission's Order dated June 29, 1990 be and it hereby is denied.

2. The information sought to be protected from disclosure shall be held as confidential and proprietary for a period of five working days from the date of this Order, at the expiration of which time it shall be placed in the public record.

Done at Frankfort, Kentucky, this 15th day of August, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director