

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

O R D E R

This matter arising upon request of Louisville Gas and Electric Company ("LG&E") filed August 22, 1990 to reconsider that part of the Commission's Order entered August 15, 1990 denying LG&E's request for confidential protection of the salaries and compensation paid to individual executive employees of LG&E for the test year on the grounds that the Order is based upon an erroneous finding in that such information is entitled to protection as information of a personal nature, disclosure of which would constitute an unwarranted invasion of personal property and as commercial information, disclosure of which would result in competitive injury, and it appearing to this Commission as follows:

On July 23, 1990, Louisville Gas and Electric Company ("LG&E") petitioned for confidential protection of its response to Item 39 of the information requests in the Commission's Order of June 29, 1990. That response contained the salaries and compensation of each executive officer for the test year ending April 30, 1990 and the preceding two calendar years. In its request for reconsideration, LG&E seeks to protect only the

compensation and salaries paid to its individual executives during the Test Year.

Denying confidentiality, the Commission found that the information sought to be protected was identical to the information filed annually with the Federal Energy Regulatory Commission, a copy of which was included in the Annual Report filed with this Commission. That report is maintained by this Commission as a public record, and therefore, any information contained within it, including compensation and salaries paid to executive employees, is not confidential and not entitled to protection.

In requesting reconsideration, LG&E concedes that the salaries and compensation paid to individual executives during the two calendar years preceding the test year were filed in the public record and are not entitled to protection. However, the individual executives' salaries and compensation for the test year ending April 30, 1990 is not a matter of public record and LG&E does not intend to make it a matter of public record in the future. LG&E maintains, therefore, that this information is confidential and entitled to protection under KRS 61.878(1)(a) and (b).

KRS 61.878(1)(a) 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 protect from public disclosure any information contained in public records that relates the details of individual's private life when the individual's privacy

interests in the information outweighs the public's interest in the information. Board of Education of Fayette County v. Lexington-Fayette Urban County Human Rights Commission, Ky.App., 625 S.W.2d 109, 111, (1981).

In this proceeding, LG&E is seeking Commission approval of an increase in its rates for electric and gas service. If approved, such an increase will affect the numerous customers served by LG&E, some of whom have been permitted to intervene either directly or as members of an affected group. As customers of LG&E, they have an interest in seeing that rates approved by the Commission are "fair, just and reasonable" as required by KRS 278.030(1). Since LG&E seeks to recover through its rate structure the compensation in salaries paid to its executive employees, LG&E customers have a right to know whether the salaries and compensation paid to such employees are reasonable. This interest outweighs the privacy interest of the executive employees and the information is not entitled to protection under the exemption provided by KRS 61.878(1)(a).

LG&E also contends that the information is entitled to protection as confidential commercial information under KRS 61.878(1)(b). In support of its request, LG&E contends that it must compete for employees with other business enterprises, including other public utilities, for competent managerial personnel. LG&E maintains that disclosure of salaries and compensation paid by LG&E would give competing employers an unfair advantage in bidding against LG&E for prospective employees and would impair LG&E's ability to negotiate salaries and compensation

with both prospective employees and current employees.

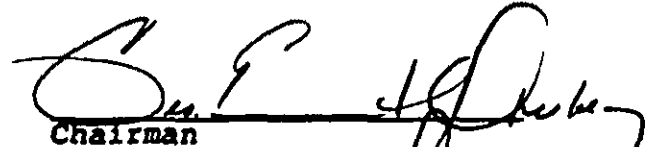
KRS 61.878(1)(b) exempts information as confidential when it is established that disclosures is likely to cause substantial competitive harm to the party from whom the information was obtained. Under the statute, the exemption applies only when disclosure of the information to a third party will likely injury the competitive position of the person from whom the information was obtained. The Commission is not persuaded that disclosure of executives' salaries and compensation would impair the ability of LG&E to recruit or retain employees. Further, there is no evidence that it will affect its ability to compete in the sale of its products. Therefore, the information is not entitled to the exemption under KRS 61.878(1)(b).

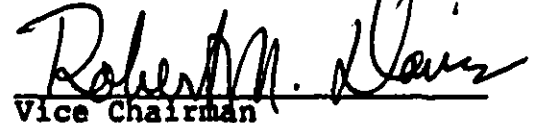
This Commission being otherwise sufficiently advised,

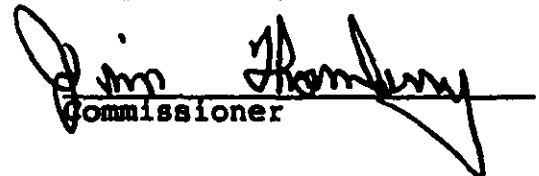
IT IS THEREFORE ORDERED that the petition for reconsideration of the Order of August 22, 1990 be and is hereby denied.

Done at Frankfort, Kentucky, this 7th day of September, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director