COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE   )
COMMISSION OF THE APPLICATION OF THE   )
FUEL ADJUSTMENT CLAUSE OF LOUISVILLE   )   CASE NO. 94-462-C
GAS AND ELECTRIC COMPANY FROM   )
NOVEMBER 1, 1995 TO APRIL 30, 1996   )

O R D E R

This matter arising upon petition of Louisville Gas and Electric Company ("LG&E"),

filed July 19, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the

bid analysis information filed in response to Item 1(b) of the Commission's June 13, 1996

Order on the grounds that disclosure of the information is likely to cause LG&E competitive

injury, and it appearing to this Commission as follows:

In response to Item 1(b) of the Commission's Order of June 13, 1996, LG&E has

filed an analysis of the bids that it received for coal for the period under review. The

information discloses how LG&E evaluates responses to solicitations for coal supply and

because LG&E considers this information to be highly sensitive, it has petitioned that it be

withheld from public disclosure.

The information sought to be protected is not known outside of LG&E and is not

disseminated within LG&E except to those employees who have a legitimate business need

to know and act upon the information.

KRS 61.872(1) requires information filed with the Commission to be available for

public inspection unless specifically exempted by statute. Exemptions from this

requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, 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.

Disclosure of the information sought to be protected would affect LG&E's ability to negotiate future coal supply contracts at the most advantageous prices and terms. LG&E purchases coal using a bid soliciation process and disclosure of the information would enable future bidders to manipulate the solicitation process to increase their bids which would in turn increase the cost of coal. Higher coal prices would require LG&E to raise its rates for electricity and thereby erode its position in the competitive marketplace. Therefore, disclosure of the information is likely to cause LG&E competitive injury, and the information should be protected as confidential.

However, because of changes and fluctuation in the marketplace, the value of the information and the adverse impact of its disclosure necessarily decreases with time. Therefore, protection of the coal bid information should be limited to two years and the bid tabulation sheets for three years.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1.   The bid analysis information filed in response to Item 1(b) of the Commission's June 13, 1996 Order, which LG&E has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection for the periods set forth hereafter.

2.   The coal bids included in the information shall be protected as confidential for a period of two years from the date of their filing.
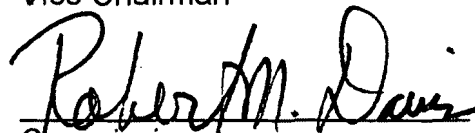
3.   The bid tabulation sheets included in the information shall be protected for a period of three years from the date of their filing; provided that, LG&E may, at the end of this period, petition for an extension of this period. Such petitions shall be granted only upon a showing of good cause.

Done at Frankfort, Kentucky, this 12th day of September, 1996.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

ATTEST:

Executive Director

Commissioner