

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                |   |                 |
|--------------------------------|---|-----------------|
| THE PETITION OF LOUISVILLE GAS | ) |                 |
| AND ELECTRIC COMPANY FOR       | ) |                 |
| CONFIDENTIAL TREATMENT OF      | ) | CASE NO. 97-022 |
| CERTAIN INFORMATION CONTAINED  | ) |                 |
| IN GAS SUPPLY AND DELIVERY     | ) |                 |
| CONTRACTS                      | ) |                 |

O R D E R

This matter arising upon petition of Louisville Gas and Electric Company ("LG&E"), filed January 15, 1997, pursuant to 807 KAR 5:001, Section 7, for confidential protection of information in its gas supply contracts with PennUnion Energy Services, L.L.P. ("PennUnion"), and its gas delivery service contract with Innovative Gas Services, Inc. ("IGS") on the grounds that disclosure of the information is likely to cause LG&E competitive injury, and it appearing to this Commission as follows:

LG&E has entered into three gas supply contracts with PennUnion, and one gas delivery contract with IGS. Two of the PennUnion contracts became effective on November 1, 1996 and the third will become effective on November 1, 1997. The IGS contract became effective on November 1, 1996.

The PennUnion contracts provide for the sale of specified quantities of natural gas by LG&E on a firm, warranted basis. The information sought to be protected in those contracts includes prices, purchase volumes, flexibility and quantities, points of receipt,

expiration dates and terms, and supporting and illustrative calculations relating to these quantities, prices, and charges.

The delivery contract with IGS provides LG&E firm transportation capacity on the Texas Gas pipeline in certain specified months. The information sought to be protected in that contract includes specific delivery obligations, quantities, points of receipt and related provisions, term provisions and prices.

Except for the parties to the agreements, the information sought to be protected is not known outside of LG&E and is not disseminated within LG&E except to those employees with 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.

LG&E competes for both gas supplies and retail gas load. Disclosure of the information sought to be protected in the gas supply contracts would allow LG&E's competitors to know the unit price and overall cost of the gas LG&E is purchasing. This information would enable the competitors to identify LG&E's low cost suppliers and if those

supply agreements are more favorable than theirs, they could attempt to outbid LG&E for those suppliers. This would result in LG&E paying higher prices for its gas and thereby erode its position in the marketplace.

In addition, disclosure of the information would reveal to LG&E's suppliers and potential suppliers the prices LG&E has agreed to pay for gas supply. Suppliers with this information, rather than offering their lowest and best prices, could adjust their offer so that it undercuts other suppliers or other terms.

Finally, disclosure of specific terms of the agreements would damage LG&E's bargaining ability in future negotiations. Suppliers with knowledge of current contract terms would demand the same terms in future contracts.

Therefore, disclosure of the information is likely to impair LG&E's ability to effectively negotiate favorable terms and conditions for its gas supply contracts. This would result in LG&E, and ultimately its customers, paying higher prices for gas. Thus, disclosure of the information is likely to cause LG&E competitive injury and the information should be protected as confidential.

The IGS delivery contracts also contain sensitive commercial information, whose disclosure, for the same reasons as the gas supply contracts, would impair LG&E's ability to obtain the most advantageous prices and terms possible under such contracts. This in turn would erode LG&E's position in the marketplace and adversely affect its competitive position. Therefore, the information is also entitled to protection as confidential.

This Commission being otherwise sufficiently advised,

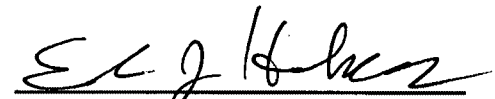
IT IS ORDERED that the information contained in the gas supply contracts with PennUnion and the delivery contracts with IGS, which LG&E has petitioned to be withheld

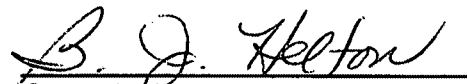
from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 18th day of February, 1997.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director