

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF LOUISVILLE GAS AND)
ELECTRIC COMPANY FOR CONFIDENTIAL)
TREATMENT OF CERTAIN INFORMATION) CASE NO. 97-094
CONTAINED IN GAS TRANSPORTATION)
AGREEMENTS)

O R D E R

This matter arising upon petition of Louisville Gas and Electric Company ("LG&E"), filed February 27, 1997, pursuant to 807 KAR 5:001, Section 7, for confidential protection of information regarding prices, rate design changes and volumes provided in two agreements with Tennessee Gas Pipeline Company ("Tennessee Gas") 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 accordance with the requirements of the Commission's Order dated January 20, 1986 in Case No. 8924-I, LG&E has filed copies of three agreements with Tennessee Gas. The first is a letter agreement amending a Gas Transportation Agreement dated November 1, 1996. The second is a Firm Transportation Discount Agreement ("Letter Agreement") dated February 4, 1997 which replaces an earlier agreement between the parties. The third agreement is a Letter of Understanding between the parties that specifically describes a rate design procedure referred to in the Letter Agreement. The information sought to be protected is contained in the Letter Agreement and the Letter of Understanding.

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.

Public disclosure of the prices, rate design changes and volumes, contained in the Letter Agreement and the Letter of Understanding, will affect LG&E's competitive position in three ways. First, it will allow LG&E's competitors to know (1) the unit price and overall cost of certain transportation services which LG&E is purchasing, and (2) the effect of prospective FERC-approved rate design changes on the composition of the unit price as between demand and commodity. Knowledge of this information would enable competitors to determine the details of LG&E's negotiated transportation service agreements, and if those agreements are more favorable than theirs, they can attempt to outbid LG&E for those services. Second, it will provide for competitors of Tennessee Gas from whom LG&E solicits bids to manipulate the bidding process by adjusting their bids to a level that is just below Tennessee Gas's prices rather than submitting their lowest possible bid. Third, it will impair LG&E's bargaining ability in future negotiations in that competing transporters will know what contractual arrangements LG&E made in the course of concluding its current

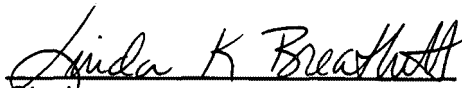
agreements and will demand the same arrangements in the future. Therefore, disclosure of the information is likely to cause LG&E competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

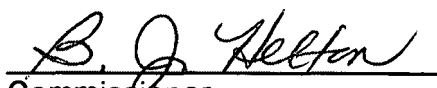
IT IS ORDERED that the information regarding prices, rate design changes and volumes contained in the Letter Agreement and the Letter of Understanding, which LG&E has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 7th day of April, 1997.


PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director