

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF LOUISVILLE )  
GAS AND ELECTRIC COMPANY S ) CASE NO. 2002-00232  
PREPAID GAS AND ELECTRIC SERVICE )

O R D E R

Pending before the Commission are a petition and a motion filed by Louisville Gas and Electric Company ( LG&E ); the former requesting confidential protection for certain provisions in a new contract to purchase electric meters to provide residential prepaid electric service as well as references thereto in rebuttal testimony and exhibits, and the latter requesting to strike as scurrilous limited portions of the direct testimony filed by David Brown-Kinloch on behalf of Metro Human Needs Alliance and People Organized and Working for Energy Reform ( MHNA and POWER ).

LG&E s petition for confidentiality seeks to keep out of the public domain many of the terms and conditions set forth in its contract for prepaid meters and any references thereto, including: the name of the meter manufacturer, the price per meter, the quantity of meters purchased, and the length of the contract. LG&E asserts that the confidentiality is justified under KRS 61.878(1)(c)(1) because the information is generally recognized as confidential and its disclosure would cause competitive injury and permit competitors an unfair commercial advantage. More specifically, LG&E s petition alleges that:

The purchase price of prepayment meters constitutes such confidential information which must remain confidential if LG&E and the meter manufacturer are not to suffer competitive injury. Public disclosure of this information may serve as an impediment to the ability of not only LG&E, but other companies similarly situated to procure competitively priced meters in the future, and the ability of the meter manufacturer to effectively compete in the market.

LG&E's petition at 2. LG&E filed no testimony in support of its petition, but asserts therein that the redacted information demonstrates on its face that it merits confidential protection. *Id.* LG&E further states that a hearing should be held on this issue in the event that the Commission does not find the allegations in the petition to be sufficient to grant confidential protection. An objection to the petition was filed by MHNA and POWER.

LG&E's motion to strike alleges that four limited portions of Mr. Brown-Kinloch's testimony are vulgar and inflammatory and lack any probative value. MHNA and POWER filed a response objecting to the motion on the grounds that it is unfounded and that the cited testimony is not scurrilous. Subsequently, LG&E filed the rebuttal testimony of Susan Sanchez, which recites and addresses two of the four limited portions of the testimony that it seeks to strike.

Based on a review of the petition for confidentiality and the objection thereto, and being otherwise sufficiently advised, the Commission finds that LG&E has failed to provide adequate support to demonstrate that any competitive injury would result from the public release of the terms and conditions set forth in the contract to purchase prepaid meters. Confidential protection can be granted pursuant to KRS 61.878(1)(c)(1) only when specific facts have been presented to show that public disclosure would permit an unfair commercial advantage to competitors of the entity that disclosed the

information. To date, the record contains nothing more than LG&E's bald assertion that public disclosure would result in competitive injury to, not only LG&E, but also to other utilities and the meter manufacturer. Therefore, the Commission will schedule an evidentiary hearing and require that prepared direct testimony be filed on behalf of each entity who asserts that public disclosure of the contract terms will cause it competitive injury.

Based on a review of the motion to strike, the response thereto, and LG&E's rebuttal testimony, the Commission finds that, while the cited testimony appears to be unduly harsh, it falls short of being scurrilous. Under these circumstances, the Commission will deny the motion to strike.

IT IS THEREFORE ORDERED that:

1. LG&E and any other entity that asserts a competitive injury from the public disclosure of the terms and provisions of the contract to purchase prepaid meters shall file prepared direct testimony no later than January 21, 2003.

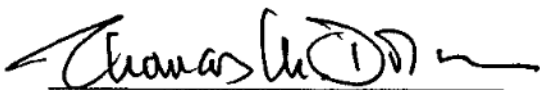
2. A public hearing shall be held on January 29, 2003 at 10:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky for the purpose of cross-examining the witnesses supporting LG&E's request for confidential protection of the prepaid meter contract.

3. LG&E's motion to strike is denied.

Done at Frankfort, Kentucky, this 15<sup>th</sup> day of January, 2003.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Charles H. [unclear]", written over a horizontal line.

Executive Director