

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matters of:

ELECTRONIC APPLICATION OF KENTUCKY)
UTILITIES COMPANY FOR AN ADJUSTMENT OF)
ITS ELECTRIC RATES, A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY TO)
DEPLOY ADVANCED METERING)
INFRASTRUCTURE, APPROVAL OF CERTAIN)
REGULATORY AND ACCOUNTING)
TREATMENTS, AND ESTABLISHMENT OF A)
ONE-YEAR SURCREDIT)

CASE NO.
2020-00349

ELECTRONIC APPLICATION OF LOUISVILLE)
GAS AND ELECTRIC COMPANY FOR AN)
ADJUSTMENT OF ITS ELECTRIC AND GAS)
RATES, A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO DEPLOY)
ADVANCED METERING INFRASTRUCTURE,)
APPROVAL OF CERTAIN REGULATORY AND)
ACCOUNTING TREATMENTS, AND)
ESTABLISHMENT OF A ONE-YEAR SURCREDIT)

CASE NO.
2020-00350

ORDER

This matter arises on two petitions filed jointly by Kentucky Utilities Company and Louisville Gas and Electric Company (collectively LG&E/KU). On December 22, 2021, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for five years for redactions from Exhibits B through E to LG&E/KU's "2020 Rate Case Response to September 24, 2021 Ordering Paragraphs 9 & 10" filing on the same date.

On November 14, 2022, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment

for five years for redactions from Appendix A to Exhibit 2 to LG&E/KU's "2022 RTO Membership Analysis" filing on the same date.

LEGAL STANDARD

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."¹ In support of its petitions, LG&E/KU argued for the application of KRS 61.878(1)(c)(1), which exempts from disclosure "[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records." Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

DECEMBER 22, 2021 PETITION

The information from Exhibits B through E to LG&E/KU's "2020 Rate Case Response to September 24, 2021 Ordering Paragraphs 9 & 10" for which LG&E/KU sought confidential treatment consists of modeling inputs and outputs related to fuel price forecasts and power production costs using proprietary data collected by third parties. LG&E/KU argued that that if the Commission grants public access to this information, LG&E/KU could be disadvantaged in negotiating fuel contracts in the future. They could

¹ KRS 61.872(1).

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

also be disadvantaged in the wholesale energy market because fuel costs are important components of energy pricing. LG&E/KU also argued that disclosure of third-party proprietary data might affect LG&E/KU's ability to obtain this type of data in the future.

Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition is granted. Disclosing projected costs would allow competitors to unfairly compete with LG&E/KU for fuel and would allow sellers to manipulate prices.⁴ The Commission finds that the designated materials are records that meet the criteria or confidential treatment and are exempted from public disclosure for five years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

NOVEMBER 14, 2022 PETITION

The information redacted from Appendix A to Exhibit 2 to LG&E/KU's "2022 RTO Membership Analysis" also consists of fuel price forecasts. As above, LG&E/KU argued that disclosure could disadvantage LG&E/KU in negotiating fuel contracts and in wholesale energy market transactions.

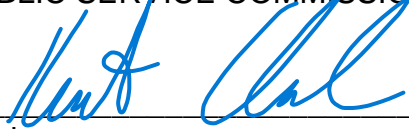
Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition is granted. Disclosing projected costs would allow competitors to unfairly compete with LG&E/KU for fuel and would allow sellers to manipulate prices. The Commission finds that the designated materials are records that meet the criteria or confidential treatment and are exempted from public disclosure for five years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

⁴ See Case No. 2019-00007, *Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from November 1, 2016 Through October 31, 2018* (Ky. PSC Jan. 9, 2020), Order at 3.

IT IS THEREFORE ORDERED that:

1. LG&E/KU's petitions for confidential treatment are granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for five years or until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).
4. LG&E/KU shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, LG&E/KU shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If LG&E/KU is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.
6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow LG&E/KU to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION

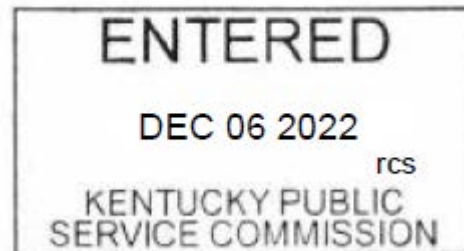


Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

Case No. 2020-00349
Case No. 2020-00350

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Emily W Medlyn
General Attorney
U.S. Army Legal Services Agency Regul
9275 Gunston Road
Fort Belvoir, VIRGINIA 22060

*John Horne
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Honorable Allyson K Sturgeon
Managing Senior Counsel - Regulatory &
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

*Thomas J FitzGerald
Counsel & Director
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KENTUCKY 40602

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Barry Alan Naum
Spilman Thomas & Battle, PLLC
1100 Brent Creek Blvd., Suite 101
Mechanicsburg, PENNSYLVANIA 17050

*G. Houston Parrish
Labor Law Attorney
Office of the Staff Judge Advocate, B
50 3rd Avenue
Fort Knox, KENTUCKY 40121

*Honorable Kendrick R Riggs
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KENTUCKY 40202-2828

*Clay A. Barkley
Strobo Barkley PLLC
239 South 5th Street
Ste 917
Louisville, KENTUCKY 40202

*Jeff Derouen
Assistant County Attorney
Louisville/Jefferson County Metro Government
First Trust Centre
200 South 5th Street, Suite 300N
Louisville, KENTUCKY 40202

*Kristin Henry
Staff Attorney
Sierra Club Environmental Law Program
2101 Webster Street
Suite 1300
Oakland, CALIFORNIA 94612

*Carrie H Grundmann
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NORTH CAROLINA 27103

*James W Gardner
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Don C A Parker
Spilman Thomas & Battle, PLLC
1100 Brent Creek Blvd., Suite 101
Mechanicsburg, PENNSYLVANIA 17050

*Jody M Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Lauren Givhan
200 S. 5th St. Suite 200 N
Louisville, KENTUCKY 40202

*Honorable David Edward Spenard
Strobo Barkley PLLC
239 South 5th Street
Ste 917
Louisville, KENTUCKY 40202

*Joe F. Childers
Childers & Baxter PLLC
300 Lexington Building, 201 West Sho
Lexington, KENTUCKY 40507

*Matt Partymiller
President
Kentucky Solar Industries Association
1038 Brentwood Court
Suite B
Lexington, KENTUCKY 40511

*J. Michael West
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Sara Judd
Senior Corporate Attorney
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507

*Rick LoveKamp
Kentucky Utilities Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40202

*Honorable Robert C Moore
Attorney At Law
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Robert Conroy
Vice President, State Regulation and Rates
LG&E and KU Energy LLC
220 West Main Street
Louisville, KENTUCKY 40202

*Randal A. Strobo
Strobo Barkley PLLC
239 South 5th Street
Ste 917
Louisville, KENTUCKY 40202

*Louisville Gas and Electric Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40232-2010