

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC JOINT APPLICATION OF |) | |
| KENTUCKY UTILITIES COMPANY AND |) | |
| LOUISVILLE GAS AND ELECTRIC COMPANY |) | |
| FOR CERTIFICATES OF PUBLIC CONVENIENCE |) | CASE NO. |
| AND NECESSITY AND SITE COMPATIBILITY |) | 2022-00402 |
| CERTIFICATES AND APPROVAL OF A DEMAND |) | |
| SIDE MANAGEMENT PLAN AND APPROVAL OF |) | |
| FOSSIL FUEL-FIRED GENERATING UNIT |) | |
| RETIREMENTS |) | |

ORDER

This matter arises on seven petitions for confidential treatment filed by Louisville Gas and Electric Company and Kentucky Utilities Company (jointly, LG&E/KU) between March 1, 2023, and June 29, 2023. On March 1, 2023, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for five years for a document filed on March 1, 2023 titled “LGE-KU_Solar_PPAs_Confidential.”

On March 10, 2023, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for five years for their responses to Commission Staff’s First Request for Information (Staff’s First Request), Items 17(b), 47(a), 48(c), 53(b), 69(b), 90(d), and 106; Metropolitan Housing Coalition, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and Mountain Association’s (jointly, Joint Intervenors) First Request for Information (Joint Intervenors’ First Request), Items 1(c), 9(e), 36, Attachment 2, 40(a), and 45; Sierra

Club's First Request for Information (Sierra Club's First Request), Item 12(a), Attachments 3 and 4; Kentucky Coal Association's (KCA) First Request for Information (KCA's First Request), Items 3 and 51; and Mercer County Fiscal Court's (Mercer County) First Request for Information (Mercer County's First Request), Item 8.

On April 14, 2023, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for five years for their supplemental response to Staff's First Request, Item 106.

On April 14, 2023, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection indefinitely for their supplemental response to Joint Intervenors' First Request, Item 44.

On May 4, 2023, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for five years for their responses to Commission Staff's Second Request for Information (Staff's Second Request), Items 21(a), 25, 42(a), 52(e), 75(a), and 81, Joint Intervenors' Second Request for Information (Joint Intervenors' Second Request), Items 60(a), 60(c), and 63, Sierra Club's Second Request for Information (Sierra Club's Second Request), Item 26(b), and KCA's Second Request for Information (KCA's Second Request), Items 4, 10(a)-(b), and 19.

On June 9, 2023, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for five years for their response to Joint Intervenors' Third Request for Information (Joint Intervenors' Third Request), Item 25.

On June 29, 2023, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for five years in part and indefinitely in part, for their supplemental response to KCA's Second Request, Item 51(b).

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 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

In support of its petitions, LG&E/KU argued the application of three exceptions to disclosure. KRS 61.878(1)(c)(1) provides an exception to the requirement for public disclosure for records that are “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.” KRS 61.878(1)(a) exempts “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” Under KRS 61.878(1)(m), the Open Records Act exempts “[p]ublic records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing,

¹ KRS 61.872(1).

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

protecting against, mitigating, or responding to a terrorist act . . .”⁴ The exemption is limited to certain types of records, including:

Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems.⁵

A terrorist act is defined as including a criminal act intended to “[d]isrupt a system” identified in the above.⁶

MARCH 1, 2023 PETITION

On March 1, 2023, LG&E/KU filed copies of its solar power purchase agreements (PPAs) with redacted terms, including rate and security terms, load factor, and maximum production. LG&E/KU argued that rates, liquidated damages terms, financial security requirements, and availability guarantee terms are commercially sensitive and should be afforded confidential protection, and if disclosed may reduce the willingness of the PPA counterparties and similar entities to contract or otherwise transact business in the future. LG&E/KU also argued that disclosure of rates would place them at a considerable disadvantage when negotiating future contracts.

Having considered the petition and the material at issue, the Commission finds that LG&E/KU’s petition should be denied. The Commission previously held as follows regarding all RFP bids:

⁴ KRS 61.878(1)(m)(1).

⁵ KRS 61.878(1)(m)(1)(f).

⁶ KRS 61.878(1)(m)(2)(b).

The solar energy payment rate, particularly for the 25 MW of solar power allocated to LG&E/KU's native load, concern the cost impact that the Commission will fully and specifically address in fuel adjustment clause (FAC) proceedings. Thus, the Commission must be able to address the PPA pricing and cost impact, particularly of the 25 MW of solar power for LG&E/KU's native load, with transparency.⁷

Likewise in the present case, the Commission must be able to transparently address the pricing and resultant cost impact in order to provide the public with a meaningful cost-benefit analysis required to analyze the Certificate of Public Convenience and Necessity (CPCN) application.

Therefore, the document filed March 1, 2023, titled "LGE-KU_Solar_PPAs_Confidential" does not meet the criteria for confidential treatment and should not be exempted from public disclosure pursuant to KRS 61.878 and 807 KAR 5:001, Section 13.

MARCH 10, 2023 PETITION

LG&E/KU provided documents in response to Staff's First Request, Items 47(a), 53(b), 69(b), and 90(d), and Joint Intervenors' First Request, Item 40(a), which consisted of request for proposal (RFP) data that included fuel cost and solar PPA cost projections. LG&E/KU argued that public disclosure of this information would place them at a considerable disadvantage when negotiating future contracts, could disadvantage them in the wholesale energy market, and provide competitors insight into LG&E/KU's evaluation of bids.

⁷ Case No. 2020-00016, *Electronic Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of a Solar Power Contract and Two Renewable Power Agreements to Satisfy Customer Requests for a Renewable Energy Source Under Green Tariff Option #3* (Ky. PSC May 8, 2020), Order at 3.

LG&E/KU provided documents in response to Staff's First Request, Item 47(a), and Joint Intervenors' First Request, Items 1(c), 9(e), and 45, including user guides, diagrams, and projections obtained from third-party vendors. LG&E/KU argued that third parties do not want confidential technical information or projections they have generated for compensation to be publicly disclosed or to be used against it in future negotiations with other customers or by its competitors and may be less willing to supply reports in the future.

LG&E/KU provided documents in response to Staff's First Request, Item 48(c) and 106, Joint Intervenors' First Request, Items 36, Attachment 2, and 40(a), and Sierra Club's First Request, Item 12(a), Attachments 3 and 4, including projected fuel price data. LG&E/KU argued that public disclosure of this information would place them at a considerable disadvantage when negotiating future contracts and could disadvantage them in the wholesale energy market.

LG&E/KU provided information in response to Joint Intervenors' First Request, Item 9(e), and KCA's First Request, Item 51, which included estimated natural gas combined cycle unit construction and gas transportation costs. LG&E/KU argued that they could be disadvantaged in negotiating contracts for construction of the natural gas combined cycle units or firm gas transportation in the future if this information were disclosed.

LG&E/KU provided documents in response to KCA's First Request, Item 3, and Mercer County's First Request, Item 8, consisting of exclusivity contracts with terms redacted. LG&E/KU argued that certain terms within these agreements, including pricing, identities of entities, and dates, should be confidential. LG&E/KU stated that per the

agreements, these terms are to remain confidential and that they could be disadvantaged in negotiating contracts in the future if these terms were disclosed.

Lastly, LG&E/KU provided information in response to Staff's First Request, Item 17(b), consisting of employee salary information. This information does not pair salaries with individual employees, but instead with position titles. LG&E/KU argued that its employees have a reasonable expectation that their compensation is personal and private information.

Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition should be granted in part and denied in part. Projected fuel costs should remain confidential under KRS 61.878(1)(c)(1) because they are considered proprietary and public disclosure of forecasted fuel prices would give fuel vendors an unfair negotiating advantage.⁸ However, solar PPA bid amounts should be denied confidential treatment as indicated above.⁹

Information provided by third parties for compensation should remain confidential because public disclosure could jeopardize LG&E/KU's ability to obtain this type of information from third parties in the future and might represent copyright law violations.¹⁰

As above, fuel cost projections should be granted confidential treatment.¹¹ However, Attachment 4 to LG&E/KU's responses to response to Joint Intervenors' First

⁸ See Case No. 2021-00245, *Electronic 2021 Integrated Resource Plan of Duke Energy Kentucky, Inc.* (Ky. PSC June 13, 2023), Order at 5.

⁹ Case No. 2020-00016, May 8, 2020 Order at 3

¹⁰ See Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief* (Ky. PSC Mar. 28, 2022), Order at 3.

¹¹ Case No. 2021-00245, June 13, 2023 Order at 5.

Request, Item 40(a) and Sierra Club's First Request 12(a), which LG&E/KU have filed confidentially in full, contains extensive data that does not consist of fuel prices and therefore should not be confidential. LG&E/KU have not established grounds for keeping the entire documents confidential. However, this finding does not apply to the file provided by LG&E/KU in response to Staff's First Request, Item 106, because the file was generated using proprietary software.

Estimated construction and gas transportation costs should be granted confidential treatment because potential bidders could use this information to manipulate the bidding process.¹²

Exclusivity agreements should be granted confidential treatment because LG&E/KU could be disadvantaged in negotiating contracts in the future if disclosed. The Commission does not find that the agreements are entitled to confidential treatment on the basis that it is protected by a non-disclosure agreement.

Although the employee salary data is not tied to individual employee names, the Commission has previously held that job titles are sufficient to link salaries to individuals and should remain confidential under KRS 61.878(1)(a).¹³

Therefore, the Commission finds that the designated material contained in LG&E/KU's responses to Staff's First Request, Items 17(b), 47(a), 48(c), 53(b), 69(b), 90(d), and 106, Joint Intervenors' First Request, Items 1(c), 9(e), 36, Attachment 2, 40(a), and 45, KCA's First Request, Items 3 and 51, and Mercer County's First Request, Item 8,

¹² See Case No. 2020-00309, *Electronic Purchased Gas Adjustment Filing of Louisville Gas and Electric Company* (Ky. PSC Aug. 20, 2021), Order at 3.

¹³ Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Dec. 7, 2021), Order at 5.

are records that meet the criteria for confidential treatment and should be exempted from public disclosure for five years pursuant to KRS 61.878(1)(a), (1)(c)(1) and 807 KAR 5:001, Section 13, with the exception of solar PPA information. LG&E/KU's responses to Sierra Club's First Request, Item 12(a), Attachments 3 and 4, Joint Intervenors' First Request, Item 40(a), and solar PPA information do not meet the criteria for confidential treatment and should not be exempted from public disclosure pursuant to KRS 61.878 and 807 KAR 5:001, Section 13.

APRIL 14, 2023 PETITION (Staff's First Request)

LG&E/KU provided a supplemental response to Staff's First Request, Item 106, which included projected hourly marginal cost of energy and their projected firm gas transportation costs. LG&E/KU argued that disclosure of this information may disadvantage them in the wholesale energy market and in negotiations for firm gas transportation service if competitors were aware of calculations for avoided capacity costs and expectations of costs for such service.

Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition should be granted. Projected costs should remain confidential under KRS 61.878(1)(c)(1) because they are considered proprietary, public disclosure of forecasted costs would give transportation contractors an unfair negotiating advantage, and projected costs could be used by energy market competitors to unfairly compete with LG&E/KU.¹⁴ Therefore, the Commission finds that the designated material contained in LG&E/KU's supplemental response to Staff's First Request, Item 106, is a record that meets the criteria for confidential treatment and should be exempted from public

¹⁴ Case No. 2021-00245, June 13, 2023 Order at 5.

disclosure for five years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

APRIL 14, 2023 PETITION (Joint Intervenors' First Request)

LG&E/KU provided a supplemental response to Joint Intervenors' First Request, Item 44, which consisted of a PROSYM software user guide. LG&E/KU stated that the PROSYM user guide is proprietary information to Hitachi Energy and that as a business in competitive markets, this third party does not want confidential technical proprietary information to be publicly disclosed or to be used to its disadvantage in future negotiations with other customers or by its competitors. LG&E/KU argued that if this information is disclosed, this party may be less willing to supply software and services in the future.

Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition should be granted. This publication should remain confidential because public disclosure could jeopardize LG&E/KU's ability to obtain this type of information from third parties in the future and might represent a copyright law violation.¹⁵ The Commission grants indefinite confidential treatment because the information in the user guide will not become stale over time. Therefore, the Commission finds that the designated material contained in LG&E/KU's supplemental response to Joint Intervenors' First Request, Item 44, is a record that meets the criteria for confidential treatment and should be exempted from public disclosure indefinitely pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

¹⁵ See Case No. 2021-00407, Mar. 28, 2022 Order at 3.

MAY 4, 2023 PETITION

LG&E/KU provided information in response to Staff's Second Request, Item 42(a), including estimated capital costs for environmental compliance to be borne by the Ohio Valley Electric Corporation (OVEC), with whom LG&E/KU contracts for energy. LG&E/KU argued that disclosure could adversely affect OVEC's ability to obtain the most reasonable prices for such goods and services in the competitive marketplace, as well as disclose OVEC's underlying cost structures, which could impair its ability to compete effectively in the wholesale energy marketplace. LG&E/KU further stated that these competitive harms could adversely affect LG&E/KU because they are contractually obligated to purchase certain amounts of energy from OVEC.

LG&E/KU provided information in response to Staff's Second Request, Items 52(e) and 75(a), including estimated construction costs for generating units. LG&E/KU argued that they could be disadvantaged in negotiating contracts for construction of these units if those estimates were disclosed.

LG&E/KU provided information in response to Staff's Second Request, Items 21(a) and 81, Joint Intervenors' Second Request, Items 60(a) and 60(c), KCA's Second Request, Items 4 and 10(a)-(b), and Sierra Club's Second Request, Item 26(b), including projected fuel costs. LG&E/KU argued that they could be disadvantaged in negotiating contracts to buy or sell these commodities in the future if this information were disclosed. They also asserted that they could be disadvantaged in the wholesale energy market because fuel costs are important components of energy pricing.

LG&E/KU provided documents in response to KCA's Second Request, Item 19, consisting of owner-engineer contracts with redacted contract amounts. LG&E/KU

argued that if this information were made public, they could be disadvantaged in negotiating future contracts.

LG&E/KU provided information in response to Joint Intervenors' Second Request, Item 66, including preliminary pricing data and terms from potential gas suppliers. LG&E/KU argued that disclosure would disrupt the competitive bid process, placing them at a disadvantage when negotiating future contracts and disadvantaging them in the wholesale energy market.

LG&E/KU provided information in response to Staff's Second Request, Item 25, including the identities of vendors they met with regarding the licensing of demand-side management and energy efficiency (DSM/EE) software. LG&E/KU argued that the RFP process is ongoing and if vendors became aware of the identity of other potential vendors, they may be less likely to submit bids or less likely to submit favorable bids.

LG&E/KU provided information in response to Staff's Second Request, Item 81, and Joint Intervenors' Second Request, Items 60(a) and 60(c), including fuel cost forecasts, RFP responses, and solar PPA proposals. LG&E/KU argued that disclosure would disrupt the competitive bid processes. They asserted that disclosure would place them at a disadvantage when negotiating future contracts and could disadvantage them in the wholesale energy market. LG&E/KU also argued that some of the data was provided by third parties who do not want confidential technical information or projections disclosed or used against it in future negotiations with other customers or by its competitors and may be less willing to supply reports in the future.

Lastly, LG&E/KU provided documents in response to Joint Intervenors' Second Request, Item 63, consisting of workpapers pertaining to their 2021 Integrated Resource

Plan (IRP). LG&E/KU argued that disclosure of this information would provide their competitors a commercial advantage in the wholesale market. LG&E/KU also asserted that disclosure of the forecasted fuel and natural gas pricing information would disadvantage them when negotiating power requirement contracts.

Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition should be granted in part and denied in part. Confidential treatment should be granted for OVEC's estimated environmental compliance capital costs because disclosure would allow bidders to manipulate construction bids, ultimately raising costs passed on to LG&E/KU, disadvantaging them with competitors. The Commission previously granted confidential treatment for OVEC's estimated compliance costs on behalf of LG&E/KU.¹⁶

Confidential treatment should be granted for LG&E/KU's estimated construction costs for generating units because potential bidders could use this information to manipulate the bidding process.¹⁷

Confidential treatment should be granted for LG&E/KU's projected fuel costs because public disclosure of forecasted fuel prices would give fuel vendors an unfair negotiating advantage.¹⁸

Confidential treatment should be denied for owner-engineer contract amounts because any selected bids should be denied confidential treatment for the sake of

¹⁶ Case No. 2020-00350, *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* (Ky. PSC Dec. 7, 2021), Order at 10.

¹⁷ See Case No. 2020-00309, Aug. 20, 2021, Order at 3.

¹⁸ See Case No. 2021-00245, June 13, 2023 Order at 5.

transparency regarding the evidence that the Commission relies upon in rendering its determinations.¹⁹

Confidential treatment should be granted for natural gas pricing terms because disclosure of gas prices would give gas suppliers an unfair negotiating advantage.²⁰

Confidential treatment should be granted for the identities of DSM/EE software vendors because disclosure of competing vendors could adversely affect LG&E/KU's negotiating position for software licensing.

Confidential treatment should be granted for LG&E/KU's projected fuel costs and RFPs because public disclosure of forecasted fuel prices would give fuel vendors an unfair negotiating advantage.²¹ However, solar PPA bids should be denied confidential treatment as indicated above.²²

Confidential treatment should be denied for LG&E/KU's 2021 IRP workpapers. LG&E/KU have not provided its IRP inputs in a way that maximizes the transparency of the filing. LG&E/KU seeks blanket protection for all the workpaper data without differentiating any of the data, some of which would not be entitled to confidential treatment. In Case No. 2020-00299, the Commission held that:

The Commission expects IRP filers to provide its IRP inputs in a way that maximizes the transparency of the filing. BREC, and all electric utilities, are put on notice that information necessary for the Commission to fully and specifically review IRPs, and for the transparency necessary for BREC's

¹⁹ Case No. 2019-00399, *Application of Salt River Electric Cooperative Corporation for an Order Issuing a Certificate of Public Convenience and Necessity to Construct an Advanced Metering Infrastructure System (AMI) Pursuant to 807 KAR 5:001 and KRS 278.020* (Ky. PSC Feb. 20, 2020), Order at 2.

²⁰ See Case No. 2017-00029, *Purchased Gas Adjustment Filing of Atmos Energy Corporation* (Ky. PSC June 30, 2017), Order.

²¹ See Case No. 2021-00245, June 13, 2023 Order at 5.

²² Case No. 2020-00016, May 8, 2020, Order at 3.

ratepayers to know what information the Commission relied upon in the Commission's review of the IRP, shall be provided with the minimum number of redactions necessary to protect sensitive information.²³

Therefore, the Commission finds that the designated material contained in LG&E/KU's responses to Staff's Second Request, Items 21(a), 25, 42(a), 52(e), 75(a), and 81, Joint Intervenors' Second Request, Items 60(a), 60(c), and 63, Sierra Club's Second Request, Item 26(b), and KCA's Second Request, Items 4 and 10(a)-(b), are records that meet the criteria for confidential treatment and should be exempted from public disclosure for five years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13, with the exception of solar PPA information. LG&E/KU's responses to Joint Intervenors' Second Request, Item 63, KCA's Second request, Item 19, and solar PPA information do not meet the criteria for confidential treatment and should not be exempted from public disclosure pursuant to KRS 61.878 and 807 KAR 5:001, Section 13.

JUNE 9, 2023 PETITION

LG&E/KU provided information in response to Joint Intervenors' Third Request, Item 25, consisting of rates from KU's special contract with BlueOval SK, LLC. LG&E/KU argued that the rate information is commercially sensitive and public disclosure of that information would impair KU's ability to negotiate future customer contracts.

Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition should be granted because disclosure of this information could harm LG&E/KU in negotiating future special contracts.²⁴ Therefore, the Commission finds that

²³ Case No. 2020-00299, *Electronic 2020 Integrated Resource Plan of Big Rivers Electric Corporation* (Ky. PSC Apr. 14, 2022), Order at 8.

²⁴ See 2016-00117, *Joint Application of Kenergy Corp. and Big Rivers Electric Corporation for Approval of Contracts* (Ky. PSC Dec. 22, 2021), Order at 2.

the designated material contained in LG&E/KU's response to Joint Intervenor's Third Request, Item 25, is a record that meets the criteria for confidential treatment and should be exempted from public disclosure for five years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

JUNE 29, 2023 PETITION

LG&E/KU provided documents in its supplemental response to KCA's Second Request, Item 51(b), consisting of RFPs for natural gas combined cycle projects. LG&E/KU argued that disclosure would place bidders, and therefore LG&E/KU, at a competitive disadvantage when negotiating with subcontractors for their bid. LG&E/KU noted that the information includes approved suppliers for specific components of the project and that disclosure may put the RFP bidders at a competitive disadvantage when negotiating with subcontractors for their bid--subcontractors would know which approved suppliers they are competing against or that they were among a small group of approved suppliers.

In addition, LG&E/KU claimed that certain information contained in the information included detailed technical specifications and floorplans for the communications systems, security design, and control system hardware for the units subject to the RFP. LG&E/KU stated that this technical information constitutes critical energy infrastructure information subject to protection under KRS 61.878(1)(m).

Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition should be granted. Confidential treatment should be granted for five years for the vendor list because disclosure of competing vendors could adversely affect LG&E/KU's negotiating position. Confidential treatment should be granted indefinitely for

technical specifications and plans because disclosure would expose potential public utility critical systems' vulnerabilities under KRS 61.878(1)(m). Therefore, the Commission finds that the designated material contained in LG&E/KU's supplemental response to KCA's Second Request, Item 51(b), is a record that meets the criteria for confidential treatment and should be exempted from public disclosure for five years for the vendor information and indefinitely for technical specifications and plans pursuant to KRS 61.878(1)(c)(1), (m)(1), and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. LG&E/KU's March 1, 2023 petition for confidential treatment is denied.
2. LG&E/KU's March 10, 2023 petition for confidential treatment is granted in part and denied in part. Confidential treatment is granted for all material designated in this petition except for information relating to solar PPAs and LG&E/KU's responses to Sierra Club's First Request, Item 12(a) and Joint Intervenor's First Request, Item 40(a), for which confidential treatment is denied.
3. LG&E/KU's April 14, 2023 petition for confidential treatment pertaining to Staff's First Request is granted.
4. LG&E/KU's April 14, 2023 petition for confidential treatment pertaining to Joint Intervenors' First Request is granted.
5. LG&E/KU's May 4, 2023 petition for confidential treatment is granted in part and denied in part. Confidential treatment is granted for all material designated in this petition except for information relating to solar PPAs and LG&E/KU's responses to KCA's Second Request, Item 19 and Joint Intervenor's Second Request, Item 63, for which confidential treatment is denied.

6. LG&E/KU's June 9, 2023 petition for confidential treatment is granted.
7. LG&E/KU's June 29, 2023 petition for confidential treatment is granted.
8. 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 and indefinitely for LG&E/KU's supplemental response to Joint Intervenors' First Request, Item 44 and technical specifications and plans provided in LG&E/KU's supplemental response to KCA's Second Request, Item 51(b), or until further order of this Commission.
9. 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).
10. LG&E/KU shall inform the Commission if the designated material granted confidential treatment becomes publicly available or no longer qualifies for confidential treatment.
11. 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.
12. The Commission shall not make the requested material for which confidential treatment was granted 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.

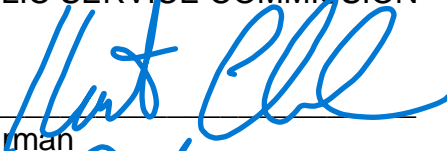
13. The designated material denied confidential treatment by this Order is not exempt from public disclosure and shall be placed in the public record and made available for public inspection.

14. If LG&E/KU objects to the Commission's determination that the requested material not be granted confidential treatment, it must seek either rehearing pursuant to KRS 278.400 or judicial review of this Order pursuant to KRS 278.410. Failure to exercise either of these statutory rights will be deemed as agreement with the Commission's determination of which materials shall be granted confidential treatment.

15. Within 30 days of the date of service of this Order, LG&E/KU shall file a revised version of the designated material for which confidential treatment was denied, reflecting as unredacted the information that has been denied confidential treatment.

16. The designated material for which LG&E/KU's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of service of this Order to allow LG&E/KU to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
AUG 31 2023 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

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

*Honorable David J. Barberie
Managing Attorney
Lexington-Fayette Urban County Government
Department Of Law
200 East Main Street
Lexington, KENTUCKY 40507

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

*Ashley Wilmes
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KENTUCKY 40602

*Dennis G Howard II
Howard Law PLLC
740 Emmett Creek Lane
Lexington, KENTUCKY 40515

*John G Horne, II
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

*Tom Fitzgerald
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KENTUCKY 40602

*Joshua Smith
Sierra Club
2101
Webster St. , Suite 1300
Oakland, CALIFORNIA 94612

*William H May, III
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

*Glibert Zelaya
Earthjustice 156 William Street, Suite 800
New York, NEW YORK 10038

*Kate Huddleston
Sierra Club Environmental Law Program
2101 Webster Street
Suite 1300
Oakland, CALIFORNIA 94612

*Byron Gary
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KENTUCKY 40602

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

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

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

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

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

*Cassandra McCrae
Earthjustice
1617 JFK Boulevard, Suite 1675
Philadelphia, PENNSYLVANIA 19103

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

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

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

*Rebecca C. Price
Sturgill, Turner, Barker & Moloney
155 East Main Street
Lexington, KENTUCKY 40507

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

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

*Steven W Lee
Spilman Thomas & Battle, PLLC
1100 Brent Creek Blvd., Suite 101
Mechanicsburg, PENNSYLVANIA 17050

*Honorable Matthew R Malone
Attorney at Law
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

*Susan Speckert
Lexington-Fayette Urban County Government
Department Of Law
200 East Main Street
Lexington, KENTUCKY 40507

*Megan W. Mullins
Spilman Thomas & Battle, PLLC
300 Kanawha Blvd, East
Charleston, WEST VIRGINIA 25301

*Kentucky Utilities Company
220 W. Main Street
P. O. Box 32010
Louisville, KY 40232-2010

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

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

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

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

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

*Thomas Cmar
Earthjustice
6608 Wooster Pike
Cincinnati, OHIO 45227