

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                      |   |                |
|--------------------------------------|---|----------------|
| ELECTRONIC REVIEW OF THE ADEQUACY OF | ) | ADMINISTRATIVE |
| KENTUCKY'S GENERATION CAPACITY AND   | ) | CASE NO. 387   |
| TRANSMISSION SYSTEM                  | ) |                |

ORDER

This matter arises on four motions requesting confidential treatment for annual filings in this proceeding: Louisville Gas and Electric Company and Kentucky Utilities Company (jointly, LG&E/KU) filed their respective motions on March 31, 2023; Duke Energy Kentucky, Inc. (Duke Kentucky), filed its motion on March 31, 2023; and Kentucky Power Company (Kentucky Power) filed its motion on April 28, 2023.

LG&E/KU'S MOTIONS AND COMMISSION FINDINGS

On March 31, 2023, LG&E/KU filed their respective motions, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for ten years for planned transmission capacity additions set forth in Appendix G, Item 14, and for five years for scheduled generation outages set forth in Appendix G, Item 11, in LG&E/KU's respective annual filings.

In support of their motions, LG&E/KU argued that the designated material related to transmission capacity additions is information regarding utility critical infrastructure because the designated material includes expected in-service dates, and facility size and site, along with the transmission need addressed by each facility addition. LG&E/KU asserted that, because the designated material consists of utility critical infrastructure, the

designated material is exempt from public disclosure under KRS 61.868(1)(m), which prohibits public disclosure of utility critical infrastructure that, if publicly disclosed, could expose a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act.

LG&E/KU further argued that the designated material related to scheduled outages is exempt from public disclosure under KRS 61.868(1)(c)(1), which prohibits public disclosure of records generally recognized as confidential or proprietary that, if publicly disclosed, would permit an unfair commercial advantage to competitors of the entity disclosing the information. LG&E/KU asserted that public disclosure of scheduled generation outages would result in competitive advantage to LG&E/KU's competitors for wholesale power sales because potential suppliers could manipulate the price of power bid to LG&E/KU to maximize suppliers' revenues, which would impair LG&E/KU's ability to obtain fair prices for power supply and would result in financial harm to LG&E/KU and its ratepayers.

Having considered the motion and the material at issue, the Commission finds that that the designated material related to transmission capacity additions contains information regarding critical infrastructure and therefore should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(m). The Commission further finds that the designated material related to scheduled outages is generally recognized as confidential or proprietary, and that public disclosure could result in commercial disadvantage to LG&E/KU; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

### DUKE KENTUCKY'S MOTION AND COMMISSION FINDINGS

Duke Kentucky requested confidential treatment for ten years for scheduled generation outages contained in Item 11 in Duke Kentucky's annual filing. Duke Kentucky requested confidential treatment under KRS 61.868(1)(c)(1), which prohibits public disclosure of records generally recognized as confidential or proprietary that, if publicly disclosed, would permit an unfair commercial advantage to competitors of the entity disclosing the information.

As a basis for its motion, Duke Kentucky asserted that public disclosure of scheduled generation outages would result in competitive advantage to Duke Kentucky's competitors for wholesale power sales because vendors could anticipate Duke Kentucky's maintenance schedule and cause energy prices to be higher than competitive rates, which results in financial harm to Duke Kentucky and its ratepayers.

Having considered the motion and the material at issue, the Commission finds that that the designated material related to scheduled outages is generally recognized as confidential or proprietary, and that public disclosure could result in commercial disadvantage to Duke Kentucky; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

### KENTUCKY POWER'S MOTION AND COMMISSION FINDINGS

Kentucky Power requested confidential treatment for until January 1, 2028, for scheduled generation outages contained in Kentucky Power's response to Data Request No. 6, Attachment 2, contained in Kentucky Power's annual filing. Kentucky Power requested confidential treatment under KRS 61.868(1)(c)(1), which prohibits public

disclosure of records generally recognized as confidential or proprietary that, if publicly disclosed, would permit an unfair commercial advantage to competitors of the entity disclosing the information.

As a basis for its motion, Kentucky Power asserted that public disclosure of scheduled generation outages would result in competitive advantage to Kentucky Power's competitors for wholesale power sales because marketers could estimate Kentucky Power's generation position and charge higher energy prices, which could result in financial harm to Kentucky Power and its ratepayers.

Having considered the motion and the material at issue, the Commission finds that that the designated material related to scheduled outages is generally recognized as confidential or proprietary, and that public disclosure could result in commercial disadvantage to Kentucky Power; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. LG&E/KU's respective March 31, 2023 motions for confidential treatment are granted.
2. Duke Kentucky's March 31, 2023 motion for confidential treatment is granted.
3. Kentucky Power's April 28, 2023 motion for confidential treatment is granted.
4. The designated material in Appendix G, Item 14, of LG&E/KU's respective annual filings granted confidential treatment by this Order shall not be placed in the public

record or made available for public inspection for ten years or until further Order of this Commission.

5. The designated material in Appendix G, Item 11, of LG&E/KU's respective annual filings 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.

6. The designated material in Item 11 of Duke Kentucky's annual filing granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for ten years or until further Order of this Commission.

7. The designated material in Kentucky Power's response to Data Request No. 6, Attachment 2 in Kentucky Power's annual filing granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection until January 1, 2028, or until further Order of this Commission.

8. 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).

9. LG&E/KU, Duke Kentucky, and Kentucky Power, respectively, shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

10. 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, Duke Kentucky, and Kentucky Power, respectively, 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, Duke Kentucky, and Kentucky Power, respectively, are unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

11. 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, Duke Kentucky, and Kentucky Power, respectively, to seek a remedy afforded by law.

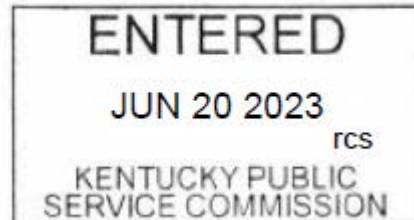
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Chairman

  
\_\_\_\_\_  
Vice Chairman

  
\_\_\_\_\_  
Commissioner



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