

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

MAR 30 2005

**JOINT APPLICATION OF LOUISVILLE GAS)
AND ELECTRIC COMPANY AND KENTUCKY)
UTILITIES COMPANY FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY,) CASE NO: 2004-00507
AND A SITE COMPATIBILITY CERTIFICATE ,)
FOR THE EXPANSION OF THE TRIMBLE)
COUNTY GENERATING STATION)**

PUBLIC SERVICE
COMMISSION

**PETITION OF LOUISVILLE GAS AND ELECTRIC COMPANY
AND KENTUCKY UTILITIES COMPANY
FOR CONFIDENTIAL PROTECTION**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively “Companies”) petition the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 7, and KRS 61.878(1)(c) to grant confidential protection to certain information requested of the Companies by Intervenors IBEW, Local 2100 and Greater Louisville Building and Construction Trades Council in Q-1 of their First Set of Data Requests. In support of this Petition, LG&E and KU state as follows:

1. On December 7, 2004, LG&E and KU filed an Application with the Commission for a Certificate of Public Convenience and Necessity for the Expansion of the Trimble County Generating Station through the Construction of their Seventy-Five Percent Collective Share of a 750 Mw Nominal Net (732 Mw summer rating) Super-Critical Pulverized Coal Fired Base Load Generating Unit. On March 17, 2005 Intervenors IBEW, Local 2100 and Greater Louisville Building and Construction Trades Council issued their First Set of Data Requests to the Companies. One of those Requests, Q-1, seeks a copy of the RFP that the Companies are utilizing in the solicitation of bids from pre-qualified EPCs as referred to in the testimony of Mr.

Voyles at p. 10. That information contains criteria that the Companies use to evaluate bidders. This information is recognized as confidential and proprietary throughout the industry, and was prepared with considerable effort and expense by the Companies. Public disclosure would allow other developers of generation projects to avoid this effort and expense by simply copying the Companies' work and thus obtain an unfair competitive advantage over the Companies. In addition, the RFP contains highly confidential analysis by the Companies of the risks and costs of the project being delayed or not being built, the Companies' expectations of future energy markets and costs, and strategic plans for addressing environmental costs and issues, coal costs and the relative values the Companies place on coal with certain characteristics such as sulfur content, BTU's and availability. Public disclosure of this information would not only allow competitive generators of energy to "game" the Companies' strategic plans, but also allow coal suppliers to judge how the Companies evaluate coal with different characteristics, and thus plan their bids accordingly, to the determination of both the Companies and their customers.

2. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of the party seeking confidentiality.

3. The information provided in the attachment in response to Q-1 demonstrates on its face that it merits confidential protection. If the Commission disagrees, however, it must hold an evidentiary hearing to protect the due process rights of the Companies and supply the Commission with a complete record to enable it to reach a decision with regard to this matter. Utility Regulatory Commission v. Kentucky Water Service Company, Inc., Ky. App., 642 S.W.2d 591, 592-94 (1982).

4. The information for which LG&E and KU are seeking confidential treatment is not known outside of LG&E and KU, other than by the pre-qualified EPCs who are required to sign confidentiality agreements and to return the information at the conclusion of the bidding process, and it is not disseminated within LG&E and KU except to those employees with a legitimate business need to know and act upon the information.

5. LG&E and KU do not object to disclosure of the confidential information to those granted full intervenor status, pursuant to a protective agreement.

6. In accordance with the provisions of 807 KAR 5:001 Section 7, one copy of the confidential information contained in the attachment to Q-1 is highlighted in yellow and ten (10) copies with the confidential information redacted are herewith filed with the Commission.

WHEREFORE, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission grant confidential protection for the information at issue, or in the alternative, schedule an evidentiary hearing on all factual issues while maintaining the confidentiality of the information pending the outcome of the hearing.

Dated: March 30, 2005

Respectfully submitted,



Kendrick R. Riggs

J. Gregory Cornett

OGDEN NEWELL & WELCH PLLC

1700 PNC Plaza

500 West Jefferson Street

Louisville, Kentucky 40202

Telephone: (502) 582-1601

Robert M. Watt III

Stoll, Keenon & Park, LLP

300 West Vine Street, Suite 2100

Lexington, Kentucky 40507-1801

Telephone: (859) 231-3000

Elizabeth L. Cocanougher
Senior Corporate Attorney
LG&E Energy LLC
220 West Main Street
Post Office Box 32010
Louisville, Kentucky 40232
Telephone: (502) 627-4850

Counsel for Louisville Gas and Electric
Company and Kentucky Utilities Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Petition for Confidential Protection was served on the following persons on the 30th day of March 2005, U.S. mail, postage prepaid:

Elizabeth E. Blackford
Assistant Attorney General
Office of the Attorney General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

John N. Hughes
Attorney at Law
124 West Todd Street
Frankfort, Kentucky 40601


Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

Daniel A. Lane
Vice President and Managing Counsel
Indiana Municipal Power Agency
11610 North College Avenue
Carmel, Indiana 46032

Troy A. Fodor, P.C.
913 South Sixth Street
Springfield, Illinois 62703

Douglas L. Jeavons
Managing Director
BBC Research & Consulting
3773 Cherry Creek North Drive, Suite 850
Denver, Colorado 80209-0448

Don Meade
Priddy, Isenberg, Miller & Meade, PLLC
800 Republic Building
429 West Muhammad Ali Boulevard
Louisville, Kentucky 40202


Counsel for Louisville Gas and Electric
Company and Kentucky Utilities Company