

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND)
ELECTRIC COMPANY FOR AN ADJUSTMENT OF) CASE NO.
ITS ELECTRIC AND GAS RATES) 2014-00372

ORDER REGARDING REQUEST FOR CONFIDENTIAL TREATMENT

On January 23, 2015, Louisville Gas and Electric Company ("LG&E") moved pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1), that certain materials filed with the Commission be afforded confidential treatment and not be placed in the public record subject to public inspection.

In support of its motion, LG&E states that the information it is requesting to be held confidential is contained in its Response to the Kentucky Industrial Utility Customers, Inc.'s ("KIUC") First Request for Information ("First Request"), Items 30.f., 61, 63.a. and d.-f., and 65, Exhibits 5 and 6. More particularly, Item 30.f. refers to the design of Trimble County Unit 2, and requests "all reports, studies, memos, or emails describing any of the following: the scope of the problem, increased fuel expense due to the problem, increased purchase power expense due to the problem, reduced off-system sales due to the problem, remediation required due to the problem, cost incurred to correct the problem, or problem resolution." LG&E states that it has provided information that contains projected outage schedules, detailed budgeted capital commitments and operating and maintenance projections, as well as proprietary and confidential design and engineering information provided by third-party contractors. LG&E states that with respect to the outage schedules, disclosure would place LG&E at

an unfair commercial disadvantage by allowing its competitors to know when its generating plants will be down for maintenance and thus to know a crucial input into LG&E's generating costs and need for power and energy during those periods. LG&E points out that the Commission has previously found that outage schedules merit confidential treatment,¹ and that disclosure of detailed capital commitment and expense projections would erode its negotiating abilities when projects are competitively bid and cause competitive harm to LG&E and its ratepayers. LG&E states that information provided by third-party contractors reveals proprietary and confidential design, research and development, and engineering information and disclosure would harm its ability to obtain engineering services in the future.

LG&E's request for confidential treatment for information contained in its Response to KIUC's First Request, Item 61 in its entirety, includes copies of "automatic reserve sharing" arrangements between LG&E and other utilities or outside parties, which LG&E argues are capacity and energy purchase and sale agreements, which if disclosed, would give LG&E's competitors an unfair competitive advantage. Also, LG&E states that the Commission recently granted confidential treatment for commercially sensitive provisions of a power purchase contract on this same ground.²

LG&E also requests confidential treatment for information contained in its Response to KIUC's First Request, Items 63.a. and d.-f., related to Integrated

¹ Case No. 2012-00550, *An Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company from November 1, 2010 through October 31, 2012* (Ky. PSC Aug. 19, 2013).

² Case No. 2009-00353, *Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of Purchased Power Agreements and Recovery of Associated Costs* (Ky. PSC Dec. 7, 2009), Letter from Jeff DeRouen, Executive Director, Public Service Commission, to W. Duncan Crosby III, Attorney for LG&E.

Resource Plan planning assumptions to construct and operate a simple-cycle combustion turbine that provides capital and expense projections that reveal the procedures followed and the factors and inputs considered by LG&E in evaluating the viability of possible generation projects. LG&E argues that disclosure would give its contractors, vendors, and competitors access to LG&E's cost and operational parameters, and insight into its contracting practices that would cause competitive harm to LG&E in the wholesale power market.

Finally, LG&E requests confidential treatment for information contained in its Response to KIUC's First Request, Item 65, Exhibits 5 and 6. LG&E states that Exhibit 5, Capacity Purchase and Tolling Agreement, represents commercial credit, concessions, terms, and conditions that it has negotiated with Bluegrass Generation Company, LLC. In addition, LG&E states that Exhibit 6, Analysis of May 2014 RFP Responses to its application in Case No. 2014-00321, is the confidential analysis and consideration of various alternatives presented to it and is based upon proprietary information provided by potential vendors. On September 23, 2014, in Case No. 2014-00321,³ LG&E and KU filed both redacted and un-redacted copies of its Response to KIUC's First Request, Item 65, Exhibits 5 and 6, herein. On April 29, 2015, the Commission granted confidential treatment for specific portions of both documents as requested in that matter.

In the present case, LG&E's Response to KIUC's First Request, Item 65, Exhibits 5 and 6, refers to Case No. 2014-00321, and LG&E again requests confidential treatment for both documents. However, in the present matter, LG&E has requested

³ Case No. 2014-00321, *Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Declaratory Order and Approval Pursuant to KRS 278.300 for a Capacity Purchase and Tolling Agreement* (Ky. PSC Apr. 29, 2015).

confidential treatment for both documents in their entirety. As both documents were filed openly in Case No. 2014-00321, with limited redactions and a request for limited confidential treatment, the Commission finds that LG&E's current request for confidential treatment of both documents in their entirety should be denied in part. The Commission further finds that while both documents were filed in Case No. 2014-00321, neither document has been filed in the present case, in either a redacted or un-redacted format.

LG&E states that the information for which it seeks confidential treatment is not known outside of LG&E and is not disseminated within LG&E except to those employees with a legitimate need to know the information. Finally, LG&E states that it will disclose the information, pursuant to a confidentiality agreement, to intervenors with a legitimate interest in this information and as required by the Commission.

Having carefully considered the motion and the materials at issue, the Commission finds that:

1. The materials for which LG&E seeks confidential treatment in its Response to KIUC's First Request, Items 30.f., 61, and 63.a. and d.-f., meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c) and 807 KAR 5:001, Section 13.

2. The materials for which LG&E seeks confidential treatment in its Response to KIUC's First Request, Item 65, Exhibits 5 and 6, were not included with LG&E's request for confidential treatment and should therefore be filed with the Commission in both redacted and un-redacted formats.

3. To the same extent that we granted in Case No. 2014-00321, limited portions of the materials for which LG&E seeks confidential treatment in its Response to KIUC's First Request, Item 65, Exhibits 5 and 6, meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c) and 807 KAR 5:001, Section 13.

4. The materials for which LG&E seeks confidential treatment, consistent with the above findings, should not be placed in the public record or made available for public inspection for an indefinite period.

IT IS THEREFORE ORDERED that:

1. LG&E's motion for confidential treatment is hereby granted in part.

2. The material contained in LG&E's Response to KIUC's First Request, Items 30.f., 61, 63.a. and d.-f., for which LG&E seeks confidential treatment, shall not be placed in the public record or made available for public inspection for an indefinite period of time.

3. The material contained in LG&E's Response to KIUC's First Request, Item 65, Exhibits 5 and 6, which was granted confidential treatment in Case No. 2014-00321, shall not be placed in the public record or made available for public inspection for an indefinite period of time.

4. Within 20 days of this Order and consistent with finding paragraph 2 above, LG&E shall file both redacted and un-redacted copies of its Response to KIUC's First Request, Item 65, Exhibits 5 and 6.

5. Use of the materials in question in this proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

6 LG&E shall inform the Commission if the materials in question become publicly available or no longer qualify for confidential treatment.

7. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order, LG&E shall have 20 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If LG&E is unable to make such demonstration, the requested materials shall be made available for inspection.

By the Commission

ENTERED JAN 14 2016 KENTUCKY PUBLIC SERVICE COMMISSION

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