

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) CASE NO.
TO DEPLOY ADVANCED METERING) 2020-00349
INFRASTRUCTURE, APPROVAL OF CERTAIN)
REGULATORY AND ACCOUNTING)
TREATMENTS, AND ESTABLISHMENT OF A)
ONE-YEAR SURCREDIT)

ELECTRONIC APPLICATION OF LOUISVILLE)
GAS AND ELECTRIC COMPANY FOR AN)
ADJUSTMENT OF ITS ELECTRIC AND GAS)
RATES, A CERTIFICATE OF PUBLIC) CASE NO.
CONVENIENCE AND NECESSITY TO DEPLOY) 2020-00350
ADVANCED METERING INFRASTRUCTURE,)
APPROVAL OF CERTAIN REGULATORY AND)
ACCOUNTING TREATMENTS, AND)
ESTABLISHMENT OF A ONE-YEAR)
SURCREDIT)

ORDER

This matter arises upon the April 20, 2021; May 19, 2021; August 2, 2021; and August 13, 2021 joint motions for confidential treatment filed by Kentucky Utilities Company (KU) and Louisville Gas and Electric Company (LG&E/KU) (jointly, LG&E/KU) in their respective cases. The motions were filed pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, and are described in more detail below.

APRIL 20, 2021 MOTION FOR CONFIDENTIAL TREATMENT

On April 20, 2021, LG&E/KU requested confidential treatment for their response to Commission Staff's Sixth Request for Information (Staff's Sixth Request), Items 14(c), 14(d), and 26, for five years, and for Item 25 for an indefinite period.

LG&E/KU explained that their response to Staff's Sixth Request, Item 14(c) and 14(d), contains forecasted fuel and variable O&M prices. LG&E/KU asserted that public disclosure of the forecasted fuel and O&M pricing is confidential, and that public disclosure would provide a commercial advantage to LG&E/KU's competitors in the wholesale market because fuel costs are key components in energy pricing. LG&E/KU further asserted that public disclosure of the fuel and O&M pricing could provide a commercial advantage to LG&E/KU's retail and wholesale customers when negotiating power requirements contracts. LG&E/KU maintained that the designated material is exempt from public disclosure in accordance with KRS 61.878(1)(c)(1), which prohibits public disclosure of confidential or proprietary information that, if public disclosed, would result in commercial harm.

LG&E/KU argued that the designated material in their response to Staff's Sixth Request, Item 26, should be deemed confidential and proprietary because it consists of a document developed by and exclusive to a vendor that explains PROSYM software's methodology for certain resource modeling. LG&E/KU asserted that public disclosure could result in commercial harm to LG&E/KU because the PROSYM vendor specifically, and other vendors generally, would be less willing to contract with LG&E/KU if information that is proprietary to the vendor was publicly disclosed. For this reason, LG&E/KU

asserted that the designated material is exempt from public disclosure in accordance with KRS 61.878(1)(c)(1).

Finally, LG&E/KU argued that their response to Staff's First Request, Item 25, which contains transmission planning documents, should be exempt from public disclosure because the material contains critical energy infrastructure information. LG&E/KU maintained that the designated material should be exempt from public disclosure in accordance with KRS 61.878(1)(m)(1), which prohibits public disclosure of records that have a reasonable likelihood of threatening public safety by disclosing the location, configuration, or security of critical systems.

Findings

Having considered the motion and the designated material at issue, the Commission concurs that designated material in their response to Staff's Sixth Request, Items 14(c), 14(d), and 26, are documents that are confidential and proprietary and that public disclosure could result in commercial harm to LG&E/KU. Therefore, the Commission finds that the designated material meets the criteria for confidential treatment pursuant to KRS 61.878(1)(c)(1), KRS 61.787(1)(m)(1), and 807 KAR 5:001, Section 13.

MAY 19, 2021 MOTION FOR CONFIDENTIAL TREATMENT

On May 19, 2021, LG&E/KU requested confidential treatment for their respective responses to Kentucky Solar Industries Association, Inc.'s Post-Hearing Request for Information (KYSEIA's Post-Hearing Request), Items 10(e)–(g) until May 8, 2025. The designated material contains bid prices submitted in response to a request for proposals for the Rhudes Creek Solar Project. LG&E/KU explained that the same information was

granted confidential treatment in Case No. 2020-00016 until May 8, 2025, under KRS 61.878(1)(c)(1).¹

Findings

Having reviewed the petition and material at issue, the Commission finds that, because the Commission previously granted confidential treatment to the same information in accordance with KRS 61.878(1)(c)(1), that LG&E/KU's May 19, 2021 motion for confidential treatment should be granted.

AUGUST 2, 2021 MOTION FOR CONFIDENTIAL TREATMENT

LG&E/KU requested confidential treatment for their joint responses to Commission Staff's Seventh Request for Information (Staff's Seventh Request), Items 29 and 31(a), and Mountain Association, Kentuckians for the Commonwealth, Metropolitan Housing Coalition, and Kentucky Solar Energy Society's First Request for Information (Joint Intervenors' Second Request), Item 1(2a), which LG&E/KU requested receive confidential treatment for five years.

LG&E/KU requested confidential treatment for the designated material under KRS 61.878(1)(c)(1), which prohibits public disclosure of information that is confidential or proprietary that, if publicly disclosed, would result in commercial harm.

LG&E/KU asserted that the designated material in their response to Joint Intervenors' Second Request, Item 1(2a), which includes projected fuel and carbon prices, and to Staff's Seventh Request, Item 29, which includes projected financial data

¹ 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).

used to develop forecasted avoided energy costs, are confidential information that, if publicly disclosed, would result in commercial harm to LG&E/KU in the wholesale market.

LG&E/KU further asserted that their response to Staff's Seventh Request, Item 31(a) contains competitive bid information pertaining to a 2019 request for proposal related to a power purchase agreement. LG&E/KU contended that public disclosure of the bid information would disrupt the competitive bid process. LG&E/KU stated that the Commission granted confidential treatment to this same material in Case No. 2020-00016.

Finding

Having considered the motion and the material at issue, the Commission finds that the designated material in LG&E/KU's response to Staff's Seventh Request, Item 29, and Joint Intervenors' Second Request, Item 1(2a), as described in the August 2, 2021 motion, is generally recognized as confidential or proprietary, and that public disclosure could result in commercial harm. Therefore, the designated material meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS 61.878(1)(c)(1), and 807 KAR 5:001, Section 13.

The Commission further finds that confidential treatment should be granted to the designated material in LG&E/KU's response to Staff's Seventh Request, Item 31(a), because the Commission previously granted confidential treatment in Case No. 2020-00016 to the same information in accordance with KRS 61.878(1)(c)(1).

AUGUST 13, 2021 MOTION FOR CONFIDENTIAL TREATMENT

LG&E/KU requested confidential treatment for their response to Commission Staff's Seventh Request for Information (Staff's Seventh Request), Items 6(a), 10(c), 10(d), and 20 for five years.

LG&E/KU requested confidential treatment in accordance with KRS 61.878(1)(c)(1), which prohibits public disclosure of confidential or proprietary information that, if publicly disclosed, would result in commercial harm.

LG&E/KU argued that the designated material consists of projected financial costs used as inputs to develop or analyze coal combustion residual beneficial use, avoided energy costs, and transmission planning, and that public disclosure would result in commercial harm to LG&E/KU. LG&E/KU asserted that public disclosure would provide a commercial advantage to competitors in the wholesale market and could disadvantage LG&E/KU in negotiating future contracts with wholesale customers. LG&E/KU further asserted that public disclosure of projected costs that LG&E/KU expect to pay for certain matters could hinder their ability to negotiate future contract prices and terms, and thus result in commercial harm.

Findings

Having considered the motion and the material at issue, the Commission finds that the designated material contained in LG&E/KU's August 13, 2021 motion are generally recognized as confidential or proprietary, and that public disclosure could result in commercial harm to LG&E/KU. Therefore, the designated material therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. LG&E/KU's April 20, 2021; May 19, 2021, August 2, 2021; and August 13, 2021 motions for confidential treatment are granted.

2. The designated material contained in LG&E/KU's response to Staff's Sixth Request, Items 14(c), 14(d), and 26, as described in the April 20, 2020 motion; in LG&E/KU's August 2, 2021 motion; and LG&E/KU's August 13, 2021 motion 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. The designated material contained in LG&E/KU's response to Staff's Sixth Request, Item 25, as described in the April 20, 2021 motion that is granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.

4. The designated material contained in LG&E/KU's May 19, 2021 motion that is granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection until May 8, 2025, or until further Order of this Commission.

5. 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).

6. 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.

7. 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

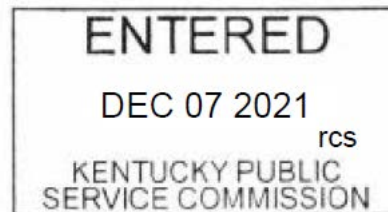
granted confidential treatment has not expired, LG&E/KU shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If LG&E/KU is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

8. 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.

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By the Commission

Commissioner Marianne Butler did not participate in the deliberations or decision concerning this case.



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bridwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

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

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