

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS ADJUSTMENT)	CASE NO.
FILING OF LOUISVILLE GAS AND ELECTRIC)	2021-00368
COMPANY)	

ORDER

On September 30, 2021, Louisville Gas and Electric Company (LG&E) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period for certain information contained in its Quarterly Gas Supply Clause filing; specifically, two pages in Exhibit B-1, pages 6 and 7, containing the names of suppliers of natural gas to LG&E in conjunction with pricing and sales information. LG&E proposed that the identity of each supplier be kept confidential.

In support of its petition, LG&E argued that Exhibit B-1 contains sensitive commercial information, the disclosure of which would injure LG&E's ability to negotiate future gas supply contracts at advantageous prices and, thereby, minimize the price of natural gas to its customers and unfairly advantage LG&E's competitors for both gas supplies and retail gas load. LG&E claimed any impairment of its ability to obtain the most advantageous price possible from natural gas producers and marketers will necessarily erode LG&E's competitive position vis-a-vis other energy suppliers that compete in LG&E's service territory, as well as other local distribution companies with

whom LG&E competes for new and relocating industrial customers. LG&E also claimed it has contractual obligations to keep the information confidential.

LEGAL STANDARD AND ANALYSIS

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 LG&E argued for the application of KRS 61.878(1)(c)(1), which exempts records that are “[g]enerally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

DISCUSSION AND FINDINGS

Having considered the petition and the material at issue, the Commission finds that LG&E’s petition is granted. Gas supplier names are exempt from disclosure because competitors could undercut LG&E’s contracts with these suppliers if they knew their identities and pricing. The Commission recently found that a sales summary showing gas supplier names, gas volume sold, and sales were entitled to indefinite confidential

¹ KRS 61.872(1).

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

protection.⁴ The identity of LG&E's suppliers of natural gas is generally recognized as confidential or proprietary and would permit an unfair commercial advantage to LG&E's competitors if publicly disclosed; it therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(c)(1).

IT IS THEREFORE ORDERED that:

1. LG&E's petition for confidential treatment is granted.
2. The designated material 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.
3. 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).
4. LG&E shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
5. 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 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 is unable to make such

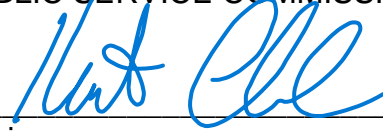
⁴ Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Dec. 7, 2021), Order at 4, citing Case No. 2016-00200, *Purchased Gas Adjustment Filing of Valley Gas, Inc.* (Ky. PSC July 27, 2017), Order at 2–3.

demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. 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 to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION



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ATTEST:



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