

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
MAR 15 2010
PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY)
UTILITIES COMPANY FOR AN) CASE NO. 2009-00548
ADJUSTMENT OF BASE RATES)

In the Matter of:

APPLICATION OF LOUISVILLE GAS)
AND ELECTRIC COMPANY FOR AN) CASE NO. 2009-00549
ADJUSTMENT OF ITS ELECTRIC)
AND GAS BASE RATES)

**JOINT PETITION OF KENTUCKY UTILITIES COMPANY
AND LOUISVILLE GAS AND ELECTRIC COMPANY
FOR CONFIDENTIAL PROTECTION FOR RESPONSES
TO CERTAIN DATA REQUESTS OF
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.**

Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (collectively “Applicants”) hereby 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 for the items described herein, which the Applicants seek to provide in response to: Kentucky Industrial Utility Customers, Inc. (“KIUC”) Initial Requests for Information to KU Nos. 7 and 64; and KIUC Initial Requests for Information to LG&E Nos. 7 and 61. In support of this Petition, the Applicants state as follows:

1. 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 the material is of a kind generally recognized to be confidential or proprietary, and the disclosure of which would permit an unfair commercial advantage to competitors of the party seeking confidentiality.

2. Request No. 7 asks each Applicant to “[i]dentify all reserve sharing and/or coordination arrangements [the Applicant] has with other utility systems or organizations, and provide a current copy of all agreements related to such arrangements.” In response, the Applicants are providing such agreements, which are in effect capacity and energy purchase and sale agreements. This is confidential business information the public disclosure of which would enable the Applicants’ competitors to discover, and make use of, the strategies the Applicants employ in obtaining such vital agreements, to the unfair competitive disadvantage of the Applicants and their customers. Moreover, the Commission recently granted confidential protection for commercially sensitive provisions of a power purchase contract on this same ground.¹

3. In response to Request No. 64 to KU and Request No. 61 to LG&E, the Applicants are providing spreadsheets that contain future fuel prices (coal, oil, and gas) and sensitive generating unit performance information. Such information merits confidential protection because revealing it would likely harm the Applicants’ ability to compete in wholesale power markets by revealing their input costs and dispatch methodology, which can affect wholesale sales strategy and performance.

4. If the Commission disagrees with any of these requests for confidential protection, however, it must hold an evidentiary hearing (a) to protect the Applicants’ due process rights and (b) to 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).

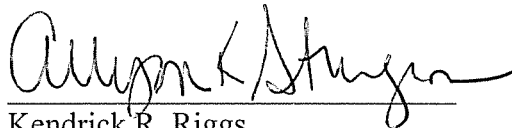
¹ See *In the Matter of Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of Purchased Power Agreements and Recovery of Associated Costs*, Case No. 2009-00353, Letter from Executive Director Jeff Derouen to W. Duncan Crosby III (Dec. 7, 2009).

5. The Applicants will disclose the confidential information, pursuant to a protective agreement, to intervenors and others with a legitimate interest in this information and as required by the Commission. In accordance with the provisions of 807 KAR 5:001 Section 7, the Applicants herewith file with the Commission one copy of the above-discussed responses with the confidential information highlighted and ten (10) copies of its response without the confidential information.

WHEREFORE, Kentucky Utilities Company and Louisville Gas and Electric 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 15, 2010

Respectfully submitted,



Kendrick R. Riggs
Robert M. Watt III
W. Duncan Crosby III
Monica H. Braun
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202-2828
Telephone: (502) 333-6000

Allyson K. Sturgeon
Senior Corporate Attorney
E.ON U.S. LLC
220 West Main Street
Louisville, Kentucky 40202
Telephone: (502) 627-2088

Counsel for Kentucky Utilities Company and
Louisville Gas and Electric Company

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Joint Petition for Confidential Protection was served via U.S. mail, first-class, postage prepaid, this 15th day of March 2010 upon the following persons:

Dennis G. Howard II
Lawrence W. Cook
Assistant Attorneys General
Office of the Attorney General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

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

Lisa Kilkelly
Legal Aid Society
416 West Muhammad Ali Blvd.
Suite 300
Louisville, KY 40202

Gardner F. Gillespie
Hogan & Hartson, L.L.P.
555 Thirteenth Street, N.W.
Washington, DC 20004-1109

Holly Rachel Smith
Hitt Business Center
3803 Rectortown Rd.
Marshall, VA 20115

David C. Brown
Stites & Harbison, PLLC
400 West Market Street, Suite 1800
Louisville, KY 40202

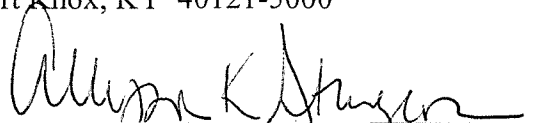
Iris G Skidmore
415 W. Main Street, Suite 2
Frankfort, KY 40601

Frank F. Chuppe
Wyatt, Tarrant & Combs, LLP
500 West Jefferson Street
Suite 2800
Louisville, KY 40202-2898

Carroll M. Redford III
Miller, Griffin & Marks, PSC
271 W. Short St., Ste. 600
Lexington, KY 40507

Robert A. Ganton, Esq.
Regulatory Law Office
U.S. Army Legal Services Agency
901 N. Stuart Street
Suite 525
Arlington, VA 22203-1837

Steven A Edwards, Esq.
Administrative Law Division
Office of the Staff Judge Advocate
1310 Third Avenue Room 215
Fort Knox, KY 40121-5000



Counsel for Kentucky Utilities Company
and Louisville Gas and Electric Company

