

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
UTILITIES COMPANY FOR AN ADJUSTMENT OF)	CASE NO.
ITS ELECTRIC RATES AND FOR CERTIFICATES)	2016-00370
OF PUBLIC CONVENIENCE AND NECESSITY)	

ORDER

This matter arises from motions requesting confidential treatment, pursuant to KRS 61.878(1) and 807 KAR 5:001, Section 13, filed by Kentucky Utilities Company (KU) on February 20, 2017, and March 13, 2017. Also, before the Commission is a motion for confidentiality filed by Lexington Fayette Urban County Government (LFUCG) on March 3, 2017.

In its February 20, 2017 motion, KU requests confidential treatment for five years for information contained in its responses to the following discovery requests:

- Lexington Fayette Urban County Government's Second Request for Information (LFUCG's Second Request), Items 4, 7(c), 20, 21(a), 36(b), 46, and 52.
- Attorney General's Supplemental Data Requests (Attorney General's Supplemental DR), Items 27(b), 27(c), and 28(a).
- Commission Staff's Third Request for Information (Staff's Third Request), Item 4(a).

KU states that the information in its responses to LFUCG's Second Request, Items 4, 7(c), and 36(b), contain customer-identifying information such as customer names,

account numbers, addresses, and usage data. KU avers that such information is exempt from public disclosure pursuant to KRS 61.878(1)(a).

KU states that its responses to the Attorney General's Supplemental DR, Items 27(b) and 27(c), contain information about salaries of replacement employees. KU contends that disclosure of salary information would constitute an unwarranted invasion of employees' personal privacy in contravention of KRS 61.878(1)(a).

KU states that its response to the Attorney General's Supplemental DR, Item 28(a), consists of a schedule supporting information filed in a federal tax return. KU avers that tax-related documents and information are exempt from public disclosure pursuant to KRS 61.878(1)(k), which provides an exemption from the Open Records Act all public records or information that are prohibited to be disclosed by federal law or regulation. KU notes that under 26 U.S.C. § 6103(a), state officials are prohibited from publicly disclosing any federal income tax return or its contents.

KU states that its response to Commission Staff's Third Request, Item 4(a), contains equipment costs that are negotiated contract rates with vendors that KU agreed would remain confidential. KU contends that publicly disclosing these costs would negatively impact KU and its ratepayers because it may harm the relationship with KU and its vendors and its bargaining ability.

KU states that its response to LFUCG's Second Request, Item 21(a), contains four bid submissions and that its response to LFUCG's Second Request, Item 52, contains pricing information about LED lighting components. KU contends that the information provided to LFUCG's Second Request, Items 21(a) and 52, are confidential business information because they disclose bids submitted by competitive bidders. KU maintains

that confidential protection is necessary because disclosure of this information would disrupt the competitive bid process and place KU at a competitive disadvantage for negotiating future agreements. KU requests that the entirety of its responses to LFUCG's Second Request, Items 21(a) and 52, be kept confidential.

On March 3, 2017, LFUCG filed a motion requesting confidential treatment—to the extent the Commission deems appropriate—of documents contained in Exhibit DJ-8 to the testimony of Douglas Jester. LFUCG notes that Exhibit DJ-8 consists of product specification sheets for the light offerings that KU identified in KU's response to LFUCG's Second Request, Item 52. However, LFUCG states that the documents in Exhibit DJ-8 were obtained from publicly accessible websites. Because of KU's pending request for confidential treatment of this information, LFUCG advises that it is filing this motion out of an abundance of caution and to protect any asserted interest of KU. To the extent KU agrees that confidential protection of these documents is not needed, LFUCG states that it will agree to waive its request for confidential protection.

On March 13, 2017, KU filed a motion seeking to revise its request to have only a portion of its response to LFUCG's Second Request, Item 52, be confidential. KU notes that the pricing information contained in its response to LFUCG's Second Request, Item 52, is not publicly available and should remain confidential.

KU states that its response to LFUCG's Second Request, Item 20, contains copies of its contract with Davis H. Elliott Company. KU contends that the contract and its amendment are confidential business information and contain concessions made to reach an agreement by KU and Davis H. Elliott Company during their bargaining process. KU

avers that disclosure of this information would harm KU's relationship with Davis H. Elliott Company and other potential service providers.

Lastly, KU states that its response to LFUCG's Second Request, Item 46, contains two spreadsheets concerning street lighting. KU asserts that these spreadsheets contain confidential business information in the form of vendor names and component pricing information. KU argues that public disclosure of the vendor names would impair its relationships with the vendors and may cause KU to have difficulty negotiating favorable prices in the future. Accordingly, KU maintains that its responses to Commission Staff's Third Request, Item 4(a) and LFUCG's Second Request, Items 20, 21(a), 46, and 52, are exempt from public disclosure pursuant to KRS 61.878(1)(c)(1).

Having carefully considered the motions and the materials at issue, the Commission finds that the designated materials identified in KU's February 20, 2017 motion and in KU's March 13, 2017 revised motion meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1) and 807 KAR 5:001, Section 13. The Commission further finds that LFUCG's March 3, 2017 motion should be denied as moot given KU's acknowledgment that the information contained in Exhibit DJ-8 are publicly available.

IT IS THEREFORE ORDERED that:

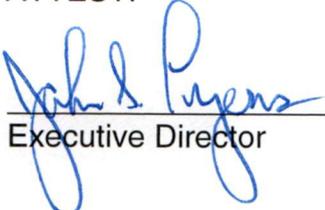
1. KU's February 20, 2017 motion for confidential treatment and its March 13, 2017, revised motion for confidential treatment are granted.

2. LFUCG's March 3, 2017 motion for confidential treatment is denied as moot.
3. The designated materials for which confidential protection was granted shall not be placed in the public record or made available for public inspection for five years, or until further Orders of this Commission.
4. Within 30 days of the date of this Order, LFUCG shall file a revised Exhibit DJ-8 to the testimony of Douglas Jester reflecting as unredacted the material for which confidential protection was denied in ordering paragraph 2.
5. Use of the materials in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
6. KU 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 the materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, then KU 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 KU is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.
8. The Commission shall not make the requested materials available for inspection for 20 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow KU to seek a remedy afforded by law.

By the Commission

ENTERED
APR 17 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

For 

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Case No. 2016-00370

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