

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 TO)
DEPLOY ADVANCED METERING)
INFRASTRUCTURE, APPROVAL OF CERTAIN)
REGULATORY AND ACCOUNTING)
TREATMENTS, AND ESTABLISHMENT OF A)
ONE-YEAR SURCREDIT)

CASE NO.
2020-00349

ELECTRONIC APPLICATION OF LOUISVILLE)
GAS AND ELECTRIC COMPANY FOR AN)
ADJUSTMENT OF ITS ELECTRIC AND GAS)
RATES, A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO DEPLOY)
ADVANCED METERING INFRASTRUCTURE,)
APPROVAL OF CERTAIN REGULATORY AND)
ACCOUNTING TREATMENTS, AND)
ESTABLISHMENT OF A ONE-YEAR SURCREDIT)

CASE NO.
2020-00350

ORDER

This matter arises on two petitions filed jointly by Kentucky Utilities Company and Louisville Gas and Electric Company (collectively LG&E/KU). On December 22, 2021, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for five years for redactions from Exhibits B through E to LG&E/KU's "2020 Rate Case Response to September 24, 2021 Ordering Paragraphs 9 & 10" filing on the same date.

On November 14, 2022, LG&E/KU filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment

for five years for redactions from Appendix A to Exhibit 2 to LG&E/KU's "2022 RTO Membership Analysis" filing on the same date.

LEGAL STANDARD

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 In support of its petitions, LG&E/KU argued for the application of KRS 61.878(1)(c)(1), which exempts from disclosure "[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records." 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

DECEMBER 22, 2021 PETITION

The information from Exhibits B through E to LG&E/KU's "2020 Rate Case Response to September 24, 2021 Ordering Paragraphs 9 & 10" for which LG&E/KU sought confidential treatment consists of modeling inputs and outputs related to fuel price forecasts and power production costs using proprietary data collected by third parties. LG&E/KU argued that that if the Commission grants public access to this information, LG&E/KU could be disadvantaged in negotiating fuel contracts in the future. They could

¹ KRS 61.872(1).

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

also be disadvantaged in the wholesale energy market because fuel costs are important components of energy pricing. LG&E/KU also argued that disclosure of third-party proprietary data might affect LG&E/KU's ability to obtain this type of data in the future.

Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition is granted. Disclosing projected costs would allow competitors to unfairly compete with LG&E/KU for fuel and would allow sellers to manipulate prices.⁴ The Commission finds that the designated materials are records that meet the criteria or confidential treatment and are exempted from public disclosure for five years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

NOVEMBER 14, 2022 PETITION

The information redacted from Appendix A to Exhibit 2 to LG&E/KU's "2022 RTO Membership Analysis" also consists of fuel price forecasts. As above, LG&E/KU argued that disclosure could disadvantage LG&E/KU in negotiating fuel contracts and in wholesale energy market transactions.

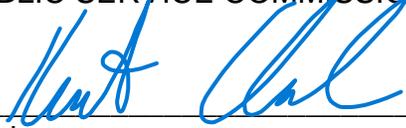
Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition is granted. Disclosing projected costs would allow competitors to unfairly compete with LG&E/KU for fuel and would allow sellers to manipulate prices. The Commission finds that the designated materials are records that meet the criteria or confidential treatment and are exempted from public disclosure for five years pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

⁴ See Case No. 2019-00007, *Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from November 1, 2016 Through October 31, 2018* (Ky. PSC Jan. 9, 2020), Order at 3.

IT IS THEREFORE ORDERED that:

1. LG&E/KU's petitions for confidential treatment are 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 five years 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/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.
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/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.
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/KU to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

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

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