

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF	)	
KENTUCKY UTILITIES COMPANY AND	)	
LOUISVILLE GAS AND ELECTRIC COMPANY	)	
FOR CERTIFICATES OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY AND SITE	)	2022-00402
COMPATIBILITY CERTIFICATES AND	)	
APPROVAL OF A DEMAND SIDE MANAGEMENT	)	
PLAN AND APPROVAL OF FOSSIL FUEL-FIRED	)	
GENERATING UNIT RETIREMENTS	)	

ORDER

On December 15, 2022, Kentucky Utilities Company and Louisville Gas and Electric Company (jointly, LG&E/KU) filed a joint petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for five years for Exhibit LI-6 to the Direct Testimony of Lana Isaacson (Isaacson Direct Testimony), Exhibit TAJ-3 of the Direct Testimony of Tim A. Jones (Jones Direct Testimony), Exhibit CRS-2 of the Direct Testimony of Charles R. Schram (Schram Direct Testimony), and Exhibits SAW-1 and SAW-2 of the Direct Testimony of Stuart A. Wilson (Wilson Direct Testimony).

The designated material in Isaacson Direct Testimony, Exhibit LI-6 is more specifically described as workpapers for LG&E/KU's 2024–2023 Demand-Side Management and Energy Efficiency Program Plan that contain avoided capacity cost files. LG&E/KU asserted that public disclosure of the designated material would disadvantage LG&E/KU in the wholesale energy market and thus should be granted

confidential treatment under KRS 61.878(1)(c)(1), which prohibits public disclosure of confidential or proprietary information that, if publicly disclosed, could result in a competitive advantage to the discloser's competitors.

The designated material in Jones Direct Testimony, Exhibit TAJ-3 is more specifically described as proprietary information provided by third parties that is not available to the general public and customer-specific usage and projected load data. LG&E/KU asserted that public disclosure of the designated material provided by third parties would diminish LG&E/KU's ability to obtain such information in the future, and thus should be afforded confidential protection under KRS 61.878(1)(c)(1). LG&E/KU asserted that public disclosure of customer-specific information would result in an unwarranted invasion of personal privacy, and thus should be granted confidential treatment under KRS 61.878(1)(a), which prohibits public disclosure of personal information that, if publicly disclosed, would constitute a clearly unwarranted invasion of personal privacy.

The designated material in Schram Direct Testimony, Exhibit CRS-2 contains responses to a request for proposals (RFP) for capacity and energy. LG&E/KU asserted that public disclosure of the designated material would place them at a competitive disadvantage in future contract negotiations, and thus should be afforded confidential protection under KRS 61.878(1)(c)(1).

The designated material in Wilson Direct Testimony, Exhibits SAW-1 and SAW-2 contains RFP responses, detailed information regarding solar power purchase agreements (PPAs), and proprietary information provided by third parties. LG&E/KU argued that public disclosure of the designated material regarding the RFP responses and solar PPAs would place them at a competitive disadvantage in future contract

negotiations, and thus should be afforded confidential protection under KRS 61.878(1)(c)(1). LG&E/KU asserted that public disclosure of the designated material provided by third parties would diminish LG&E/KU's ability to obtain such information in the future, and thus should be afforded confidential protection under KRS 61.878(1)(c)(1).

Having considered the petition and the material at issue, the Commission finds that LG&E/KU's petition should be granted in part and denied in part. The Commission notes that Exhibit SAW-1 to Wilson Direct Testimony was revised in response to a request for information by Metropolitan Housing Coalition, Kentuckians for the Commonwealth, Kentucky Solar Energy Society, and Mountain Association's (jointly, Joint Intervenors). The Commission addressed the designated material in an Order entered August 31, 2023, and thus finds that the December 15, 2022 motion regarding Wilson Direct Testimony, Exhibit SAW-1 should be denied as moot.<sup>1</sup>

The Commission finds that the designated material contained in Jones Direct Testimony, Exhibit TAJ-3; Schram Direct Testimony, Exhibit CRS-2; and Wilson Direct Testimony, Exhibit SAW-2 are confidential and proprietary, and therefore should be granted with the exception of the winning bids contained in the RFP responses in Schram Direct Testimony, Exhibit CRS-2. The designated material granted confidential treatment in this Order should be granted confidential treatment pursuant to KRS 61.878(1)(a), KRS 61.878(1)(c)(1), and 807 KAR 5:001, Section 13.

The Commission further finds that the request for confidential treatment should be denied for the winning bids contained in the RFP responses in Schram Direct Testimony,

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<sup>1</sup> The Commission notes that LG&E/KU have appealed the Commission's August 31, 2023 Order and a subsequent Order denying reconsideration entered on Oct. 10, 2023. This matter is currently under appeal before Franklin Circuit Court.

Exhibit CRS-2 and for the avoided capacity costs contained in Isaacson Direct Testimony, Exhibit LI-6. This is because the winning bids in the RFP responses and the avoided capacity costs are information that the Commission must be able to transparently address to provide the public with a meaningful cost-benefit analysis concurrently with reaching a decision in this matter. Therefore, the designated material denied confidential treatment in this matter should not be 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 December 15, 2022 petition for confidential treatment is granted in part and denied in part.

2. LG&E/KU's request for confidential treatment for Jones Direct Testimony, Exhibit TAJ-3; Schram Direct Testimony, Exhibit CRS-2, with the exception of the winning bids contained in the RFP responses; and Wilson Direct Testimony, Exhibit SAW-2 is granted.

3. LG&E/KU's request for confidential treatment for Exhibit SAW-1 to Wilson Direct Testimony is denied as moot.

4. LG&E/KU's request for confidential treatment for the winning bids contained in the RFP responses in Schram Direct Testimony, Exhibit CRS-2, and Isaacson Direct Testimony, Exhibit LI-6 is denied.

5. 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.

6. 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).

7. LG&E/KU shall inform the Commission if the designated material granted confidential treatment becomes publicly available or no longer qualifies for confidential treatment.

8. 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.

9. The Commission shall not make the requested material for which confidential treatment was granted 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.

10. The designated material denied confidential treatment by this Order is not exempt from public disclosure and shall be placed in the public record and made available for public inspection.

11. If LG&E/KU objects to the Commission's determination that the requested material not be granted confidential treatment, it must seek either rehearing pursuant to KRS 278.400 or judicial review of this Order pursuant to KRS 278.410. Failure to exercise

either of these statutory rights will be deemed as agreement with the Commission's determination of which materials shall be granted confidential treatment.

12. Within 30 days of the date of service of this Order, LG&E/KU shall file a revised version of the designated material for which confidential treatment was denied, reflecting as unredacted the information that has been denied confidential treatment.

13. The designated material for which LG&E/KU's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of service of this Order to allow LG&E/KU to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Vice Chairman

  
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Commissioner

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