

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR CONFIDENTIAL )  
TREATMENT OF INFORMATION FILED )  
WITH LOUISVILLE GAS AND ) CASE NO. 93-418  
ELECTRIC COMPANY'S PROPOSED )  
GAS SUPPLY CONTRACTS )

O R D E R

This matter arising upon petition of Louisville Gas and Electric Company ("LG&E"), filed November 4, 1993, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the unit price and overall cost of natural gas LG&E has contracted to purchase from several suppliers on the grounds that disclosure of the information is likely to cause LG&E competitive injury, and it appearing to this Commission as follows:

LG&E has entered into contracts with several suppliers to purchase natural gas for resale to its customers. These contracts became effective on November 1, 1993, and pursuant to this Commission's Order in Case No. 8924-I the contracts were filed. By this petition, LG&E seeks to protect as confidential those portions of the contracts which reveal the unit price and overall cost of the gas LG&E is purchasing.

The information LG&E seeks to protect as confidential is not known outside of LG&E and its respective suppliers and is not disseminated within LG&E except to those employees who have a legitimate business need to know and act upon the information. Each contract has a confidentiality clause which requires LG&E to protect the information from public disclosure to the extent permitted by law.

KRS 61.872 requires information filed with the Commission to be available for public inspection unless specifically exempted by KRS 61.878(1). KRS 61.878(1) exempts commercial information confidentially disclosed to the Commission which if made public, would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and the likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The material in question consists of contracts for supplies and transportation of natural gas to LG&E. The contracts contain prices, purchase volumes, flexibility and quantities, points of receipt, expiration dates, and terms and supporting and illustrative calculations relating to these quantities, prices and charges. Disclosure of this information would allow LG&E's competitors to identify suppliers, determine the unit price and overall cost of the gas LG&E is purchasing. If these prices are more favorable than the prices competitors are currently paying, knowledge of the information would encourage these competitors to attempt to out-bid LG&E for the gas, thereby, driving up its cost. This would weaken LG&E's position in the marketplace and lessen its ability to compete in the retail energy market; therefore, the information should be protected as confidential.

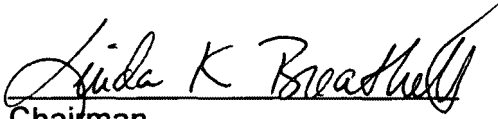
After consideration of the evidence of record and being otherwise sufficiently advised, the Commission finds that the contracts in question are generally recognized as confidential and proprietary, and disclosure to the public will create an unfair


commercial advantage to LG&E's competitors. Accordingly, LG&E's supplier contracts should be exempted from public disclosure under KRS 61.878(1)(c) and should be afforded confidential protection.

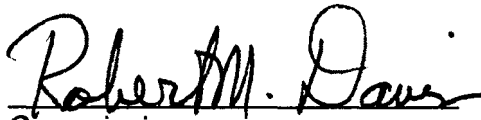
IT IS THEREFORE ORDERED that the petition to protect as confidential the information pertaining to the unit price and overall cost of the gas LG&E is purchasing under the contracts is hereby granted. The information shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 26th day of June, 1996.


PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director