

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF LOUISVILLE GAS &)
ELECTRIC COMPANY FOR)
CONFIDENTIAL TREATMENT OF) CASE NO. 94-522
CERTAIN INFORMATION CONTAINED)
IN GAS SUPPLY CONTRACTS)

O R D E R

This matter arising upon petition of Louisville Gas and Electric Company ("LG&E"), filed December 21, 1994, pursuant to 807 KAR 5:001, Section 7, for confidential protection of information in its gas supply contracts with Noram Energy Services, Inc.; Tenneco Gas Marketing Company; Union Oil Company of California; and, Union Pacific Fuels, Inc. 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 the above-named suppliers to purchase natural gas and pursuant to the Commission's Order dated January 20, 1986, in Case No. 8923-1, copies of the contracts have been filed with the Commission.

Except for the parties with whom the contracts have been executed, the information sought to be protected is not known outside of LG&E and the information is not disseminated within LG&E except to those employees who have a legitimate business need to know and act upon the information.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this

requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is 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 a 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 gas supply contracts contain prices, take requirements, flexibility and quantities, points of receipt, expiration dates and terms, and supporting illustrative calculations relating to these quantities, prices, and charges. Disclosure of this information would allow LG&E's competitors to determine the unit price and overall cost of the gas LG&E is purchasing. If these prices are more favorable than the prices its competitors are currently paying, knowledge of the information would encourage those 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, therefore, the information should be protected as confidential.

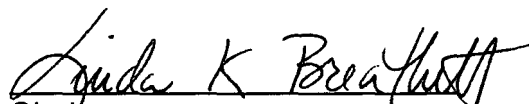
After consideration of the evidence of record and being otherwise sufficiently advised, the Commission finds that the contracts in question are generally recognized as confidential and proprietary, and disclosure to the public will create an unfair commercial advantage to LG&E's competitors. The contracts should, therefore, be


exempted from public disclosure under KRS 61.878(1)(c) and should be afforded confidential treatment.

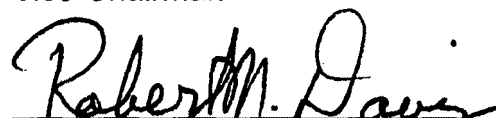
IT IS THEREFORE ORDERED that the petition to protect as confidential certain information contained in the gas supply contracts with Noram Energy Services, Inc.; Tenneco Gas Marketing Company; Union Oil Company of California; and, Union Pacific Fuels, Inc., which LG&E has petitioned to be withheld from public disclosure, 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