

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS)	
AND ELECTRIC COMPANY AND KENTUCKY)	
UTILITIES COMPANY FOR A CERTIFICATE)	
OF PUBLIC CONVENIENCE AND NECESSITY)	CASE NO. 2014-00002
FOR THE CONSTRUCTION OF A COMBINED)	
CYCLE COMBUSTION TURBINE AT THE)	
GREEN RIVER GENERATING STATION AND A)	
SOLAR PHOTOVOLTAIC FACILITY AT THE)	
E.W. BROWN GENERATING STATION)	

JOINT PETITION OF
LOUISVILLE GAS AND ELECTRIC COMPANY
AND KENTUCKY UTILITIES COMPANY
FOR CONFIDENTIAL PROTECTION

Joint Applicants, Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”), petition the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878 to grant confidential protection for the items described herein. The Companies seek confidential protection of the responses to: Item 22 of the Commission Staff’s First Request for Information (“PSC 1-22”); Items 13(c), 42(b), 42(d), 43, 61, 107, 128, 138, 142, 143, 144, 145, 148, 149, 150, 162, 181, 198 and 200 of the Attorney General’s Initial Requests for Information (“AG 1-___”); Items 1(b) and 6 of Kentucky Industrial Utility Customers’ First Set of Data Requests (“KIUC 1-___”); and Items 4(c), 5(c), 7, 18(a), 19(e), 33, 46(b) and 46(d) of Wallace McMullen and Sierra Club’s Initial Data Requests (“SC 1-___”). In support of this Joint Petition, the Companies state as follows:

1. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for the exemption and, therefore, maintain the

confidentiality of the information, a party must establish that the material is of a kind generally recognized to be confidential or proprietary, and the disclosure of which would permit an unfair commercial advantage to competitors of the party seeking confidentiality.

2. In support of their Joint Application in this matter, the Companies have submitted the Direct Testimony of David S. Sinclair and the Companies' Resource Assessment, Exhibit DSS-1 to his testimony. By petition of January 17, 2014, the Companies sought confidential protection of portions of Mr. Sinclair's testimony and Exhibit DSS-1 because those portions: (1) describe the process by which the Companies determined the least reasonable cost solution for meeting their electric generation needs; (2) reveal the identity of bidders and the substance of bids received by the Companies from those who responded to the Companies' September 2012 Request for Proposals ("RFP") by which the Companies sought and received numerous proposals to meet their generation needs; (3) contain information about the process the Companies used to evaluate and rank the bids; and (4) contain information about projected fuel and other variable costs. All of this information is commercially sensitive and confidential, the disclosure of which would work to the competitive disadvantage of the Companies, and, in the case of information about the bidders, the disclosure would work to their competitive disadvantage as well. Although the Commission has not ruled on the January 17, 2014 petition, the Companies seek confidential protection of the responses to the following data requests for these same reasons pursuant to KRS 61.878(1)(c): PSC 1-22 1; AG 1-42(b), 1-42(d), 1-43, 1-128, 1-138, 1-142, 1-143, 1-144, 1-145, 1-148, 1-149, 1-150, 1-162, 1-181, 1-198, and 1-200; KIUC 1-6; SC 1-5(c) and 1-46(b). The attachment to the response to AG 1-42(d) is a contract which, by its own terms, is entirely confidential. Therefore, it is not highlighted as permitted by

807 KAR 5:001, Section 13(2)(a)3.¹ The documents containing confidential information in the response to KIUC 1-6 are not being submitted in highlighted form because they largely consist of spreadsheets, memoranda and PowerPoint presentations about bidders that responded to the RFP and the analysis of their bids. There are many, many documents containing such information. An attempt to redact and highlight them would be labor intensive and extremely time consuming and the redactions would render the documents meaningless. Thus, it is appropriate, pursuant to 807 KAR 5:001, Section 13(2)(a)(3) that confidential treatment be sought for this entire set of documents.

3. The Companies' responses to AG 1-107 and SC 1-4(c) contain information about the Companies' Critical Energy Infrastructure as defined by the Federal Energy Regulatory Commission, which is exempt from federal Freedom of Information Act disclosure, and which meets the exemption requirements of KRS 61.878(1)(m)1.f: "Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to ... electrical ... systems[.]" This information is highly confidential, the disclosure of which could be useful to anyone seeking to threaten or harm public safety. It is therefore highly confidential and must be protected from public disclosure. The entire responses to these requests are confidential, and, therefore, they are not highlighted as permitted by 807 KAR 5:001, Section 13(2)(a)3.

4. The Companies' responses to KIUC 1-1(b), AG 1-13(c) and SC 1-18(a) contain data about individual customer historical energy use and customer-specific data related to that individual customer's projected energy use. This information is confidential customer usage

¹ The regulation states, in part, "If confidential treatment is sought for an entire document, written notification that the entire document is confidential may be filed with the document in lieu of the required highlighting."

data, the public disclosure of which would be an unwarranted breach of each customer's private information prohibited by KRS 61.878(1)(a).

5. The Companies' response to SC 1-7 contains the Companies' highly sensitive and confidential budget information, which is exempt from disclosure by KRS 61.878(c) because its disclosure would work to the competitive disadvantage of the Companies.

6. The Companies' responses to AG 1-13(c), 1-61, SC 1-18(a), 1-19(e), 1-33 and 1-46(d) contain proprietary information the Companies have obtained from third parties: Wood Mackenzie, IHS Global Insight, Electric Power Research Institute and/or EPIS, Inc. Therefore, it is exempt from public disclosure pursuant to KRS 61.878(1)(c). Those entities have authorized the confidential disclosure of this information, but because the entirety of the document is proprietary, it is not highlighted as permitted by 807 KAR 5:001, Section 13(2)(a)3.

7. If the Commission disagrees with any of these requests for confidential protection, however, it must hold an evidentiary hearing (a) to protect the Companies' due process rights and (b) to supply the Commission with a complete record to enable it to reach a decision with regard to this matter. Utility Regulatory Commission v. Kentucky Water Service Company, Inc., 642 S.W.2d 591, 592-94 (Ky. App. 1982).

8. The information for which the Companies are seeking confidential treatment pursuant to KRS 61.878(c) is not known outside of the Companies (or the bidders with respect to confidential information supplied to the Companies by the bidders), is not disseminated within the Companies except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information in the energy industry.

9. The Companies will disclose the confidential information pursuant to a confidentiality agreement, to intervenors and others with a legitimate interest in this information and as required by the Commission.

10. In compliance with 807 KAR 5:001 § 13(2)(e) and 8(3), the Companies are filing with the Commission one paper copy that identifies by highlighting the information for which confidential protection is sought and one electronic copy with the same information obscured unless (a) otherwise noted herein or (b) in accordance with a request to Commission Staff. The Companies request that, with the exception of the responses to AG 1-107 and SC 1-4(c), the information be kept confidential for at least five years from the date of this filing as that is the amount of time necessary before the confidential information becomes dated to the point that the need for protection no longer exists. For AG 1-107 and SC 1-4(c), which contain Critical Energy Infrastructure information, the Companies request it be kept confidential indefinitely.

WHEREFORE, the Companies respectfully request that the Commission grant confidential protection for the information described herein.

Dated: March 27, 2014

Respectfully submitted,



Kendrick R. Riggs
Robert M. Watt, III
Lindsey W. Ingram III
Stoll Keenon Ogden, PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507
(859) 231-3000
kendrick.riggs@skofirm.com
robert.watt@skofirm.com
l.ingram@skofirm.com

Allyson K. Sturgeon
Senior Corporate Attorney
LG&E and KU Services Company
220 West Main Street
Louisville, Kentucky 40202
(502) 627-2088
allyson.sturgeon@lge-ku.com

*Counsel for Louisville Gas and Electric Company
and Kentucky Utilities Company*


CERTIFICATE OF SERVICE

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's March 27, 2014 electronic copy of this Joint Petition for Confidential Protection and related documents is a true and accurate copy of the documents being filed in paper medium, with the exception that unobscured versions of the documents which the Companies are not being filed in electronic format under 807 KAR 5:001 § 13(2)(e); that the electronic filing was transmitted to the Commission on March 27, 2014; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; that a copy of the filing in paper medium is being hand-delivered to the Commission within two business days of this filing; and that on March 27, 2014, electronic mail notification of the electronic filing will be provided to the following:

Dennis G. Howard, II
Assistant Attorney General
Office of the Attorney General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

Joe F. Childers
Joe F. Childers & Associates
300 Lexington Building
201 West Short Street
Lexington, KY 40507



*Counsel for Louisville Gas and Electric
Company and Kentucky Utilities Company*