

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>JOINT APPLICATION OF LOUISVILLE GAS</b>	)	
<b>AND ELECTRIC COMPANY AND KENTUCKY</b>	)	
<b>UTILITIES COMPANY FOR REVIEW,</b>	)	
<b>MODIFICATION, AND CONTINUATION OF</b>	)	<b>CASE NO. 2014-00003</b>
<b>EXISTING, AND ADDITION OF NEW,</b>	)	
<b>DEMAND-SIDE MANAGEMENT AND ENERGY</b>	)	
<b>EFFICIENCY PROGRAMS</b>	)	

**LOUISVILLE GAS AND ELECTRIC COMPANY AND  
KENTUCKY UTILITIES COMPANY'S  
JOINT PETITION FOR CONFIDENTIAL PROTECTION**

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(1) to grant confidential protection for the items described herein, which the Companies seek to provide in response to Wallace McMullen and Sierra Club’s Initial Requests for Information, Questions No. 16(c) and 16(d). In support of this Joint Petition, the Companies state as follows:

1. On January 17, 2014, the Companies filed their joint petition to review, modify, continue, and add demand-side management and energy efficiency programs (“DSM/EE”). On February 17, 2014, Wallace McMullen and the Sierra Club issued their Initial Requests for Information to the Companies.

**Confidential or Proprietary Commercial Information (KRS 61.878(1)(c))**

2. 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.

3. In response to Wallace McMullen and the Sierra Club's Question No. 16(c), the Companies are providing proposals received in response to the Companies' request for consultant proposals to study the potential for DSM/EE programs in the Companies' service territories ("EE Potential Study") and to review the Companies' current DSM/EE programs ("DSM/EE Program Review"). Publicly disclosing such information would result in harm to the Companies and their customers by providing competing consultants an opportunity to know what their competitors are offering and thereafter offering proposals that represent this information rather than their true best offers. Further, consultants in a competitive market are more likely to submit proposals when they know that their responses will not be known to their competitors. The Companies are well aware of this concern and expressly inform potential consultants that proposals received will be treated as confidential. The Companies and their customers benefit from having many potential consultants submitting proposals that represent their best offers. This information should therefore be afforded confidential protection to protect the Companies and their customers.

4. The Commission has given confidential protection to proposals received in response to the Companies' request for bids in prior proceedings.<sup>1</sup>

5. In response to Wallace McMullen and the Sierra Club's Question No. 16(d), the Companies are providing contracts between the Companies and Cadmus Group for the work leading to the EE Potential Study and DSM/EE Program Review. These contracts are sensitive

---

<sup>1</sup> See, e.g., *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of a Combined Cycle Combustion Turbine at the Cane Run Generating Station and the Purchase of Existing Simple Cycle Combustion Turbine Facilities from Bluegrass Generation Company, LLC in LaGrange, Kentucky*, Case No. 2011-00375, Letter from Executive Director Jeff DeRouen (Feb. 27, 2012).

commercial information the public disclosure of which would hinder the Companies' ability to procure the best contract terms in negotiations with other consultants. Cadmus and the Companies entered these contracts with a mutual desire and intent to keep the contracts confidential. Publicly disclosing the contracts would negatively affect the Companies' relationship with Cadmus. Diminishing the Companies' ability to contract for the best possible terms would harm their customers through increased costs of service. This information should therefore be afforded confidential protection to protect the Companies and their customers.

6. The Commission has given confidential protection to contracts with vendors in prior proceedings.<sup>2</sup>

7. The information for which the Companies are seeking confidential treatment is not known outside of the Companies and the entity submitting the bid or entering the contract, 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.

8. If the Commission disagrees with any of these requests for confidential protection, it must hold an evidentiary hearing (a) to protect the Companies' due process rights and (b) to supply with the Commission with a complete record to enable it to reach a decision with regard to this matter.<sup>3</sup>

9. In accordance with the provisions of 807 KAR 5:001, Section 13, LG&E and KU are filing with the Commission one highlighted copy of the Confidential Information. Because

---

<sup>2</sup> See, e.g., *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Review, Modification, and Continuation of Existing, and Addition of New, Demand-Side Management and Energy-Efficiency Programs*, Case No. 2011-00134, Letter from Executive Director Jeff DeRouen (Aug. 31, 2011).

<sup>3</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

the Companies are seeking confidential protection for these documents in their entirety, the Companies are not providing a redacted copy of the confidential material.

**WHEREFORE**, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission grant confidential protection for the information described herein, or, in the alternative, schedule an evidentiary hearing on all factual issues while maintaining the confidentiality of the information pending the outcome of the hearing.

Dated: March 12, 2014

Respectfully submitted,



Kendrick R. Riggs  
W. Duncan Crosby III  
Joseph T. Mandlehr  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202  
Telephone: (502) 333-6000  
kendrick.riggs@skofirm.com  
duncan.crosby@skofirm.com  
joseph.mandlehr@skofirm.com

Allyson K. Sturgeon  
Senior Corporate Attorney  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KY 40202  
Telephone: (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 12, 2014 electronic filing of the Joint Petition for Confidential Protection is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on March 3, 2014; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and one copy in paper medium of the Joint Petition are being mailed to the Commission on March 3, 2014.



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