

**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>CASE NO. 2014-00003</b>
<b>MODIFICATION, AND CONTINUATION OF</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 the Commission’s Order dated November 14, 2014, in the above-referenced proceeding. 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 November 14, 2014, the Commission entered its Order approving the Companies’ DSM/EE Program Plan; Ordering Paragraphs 5 and 6 require the Companies to commission and file an industrial potential or market-characterization study (the “Industrial Study”).

2. On November 21, 2014, the Companies issued a request for proposals (“RFP”) to ten reputable vendors across the United States. The Companies received responses from two vendors by the RFP-response deadline in December 2014, and thereafter analyzed the responses, and conducted contract negotiations and drafting.

3. On February 3, 2015, the Companies entered into a contract with The Cadmus Group, Inc. to perform the Industrial Study. On February 25, 2015, the Companies mailed a letter to the Commission's Executive Director to notify the Commission that the Companies had entered into the contract.<sup>1</sup>

4. The Companies are now filing the Industrial Study with the Commission in accordance with Ordering Paragraph 6.

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

5. 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.

6. In connection with the Companies' ongoing updates to the Commission, the Companies are providing a copy of the Industrial Study. The Industrial Study contains confidential information the public disclosure of which would hinder the Companies' ability to receive the best proposals and procure the best contract terms in negotiations with other entities. In particular, the Industrial Study contains pricing information derived from contracts with vendors involved in the Companies' Commercial Demand Conservation program; this information is used in the Industrial Study to estimate the costs of a similar program for the Companies' industrial customers. Publicly disclosing such information would result in harm to the Companies and their customers by providing competing vendors an opportunity to know what their competitors offered for similar contracts and what the Companies expect vendors to offer for future contracts; vendors could use

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<sup>1</sup> Case No. 2014-00003, Letter to Executive Director Jeff DeRouen (Feb. 25, 2015).

this information to provide proposals and negotiate for contract terms that represent this information rather than their true best offers. Further, vendors in a competitive market are more likely to provide proposals and enter contracts when they know that sensitive terms such as pricing will not be known to their competitors. 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.

7. The Commission has given confidential protection to similar information in prior proceedings.<sup>2</sup>

8. The information for which the Companies are seeking confidential treatment is not known outside of the Companies and the entity submitting the pricing information 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.

9. 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>

10. In compliance with 807 KAR 5:001 Sections 8(3) and 13(2)(e), the Companies are filing with the Commission one paper copy that identifies by highlighting the information for

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<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).

which confidential protection is sought and one electronic copy with the same information obscured.

11. The Companies respectfully request that the information identified above be kept confidential for a period of five years, after which time the pricing information will be of little use in the market at that time.

**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: May 26, 2016

Respectfully submitted,



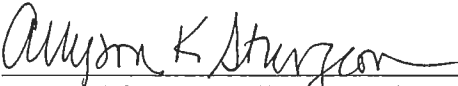
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*Counsel for Louisville Gas and Electric Company  
and Kentucky Utilities Company*

**CERTIFICATE OF SERVICE**

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's May 26, 2016 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 May 26, 2016; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original in paper medium of the Joint Petition will be delivered to the Commission on or before May 31, 2016.

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