

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

**In the Matter of:**

**THE 2014 JOINT INTEGRATED RESOURCE            )**  
**PLAN OF LOUISVILLE GAS AND ELECTRIC        )**  
**COMPANY AND KENTUCKY UTILITIES                )** **CASE NO. 2014-00131**  
**COMPANY    )**

**JOINT PETITION OF LOUISVILLE GAS AND ELECTRIC COMPANY**  
**AND KENTUCKY UTILITIES COMPANY FOR CONFIDENTIAL PROTECTION**  
**AND FOR DEVIATION FROM FILING REQUIREMENTS**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”) petition the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1) to grant confidential protection to the Companies’ responses to Item 23 of the Commission Staff’s First Request for Information (“PSC 1-23”) and Items 1.3, 1.6, 1.21, and 1.25 of Wallace McMullen and Sierra Club’s Initial Data Requests (“SC 1.\_\_\_\_,” e.g., “SC 1.3”), as well as permission to file certain modeling data on an external hard drive or other appropriate mass-storage device rather than in paper due to the large volume of data. In support of this Joint Petition, the Companies state as follows:

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure commercially sensitive information to the extent that open disclosure would permit an unfair commercial advantage to competitors of the entity disclosing the information to the Commission. *See* KRS 61.878(1)(c)(1). The public disclosure of the information identified as confidential that the Companies are providing in response to PSC 1-23, SC 1.3, and SC 1.6 would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. The confidential information the Companies are providing in response to the

above-cited data requests include power production costs and other related data, including projected fuel costs, operation and maintenance expenses, capital costs, and heat rates. This information was developed internally by Companies' personnel, or by third-party vendors at the direction of the Companies, is not on file with any public agency, is not available from any commercial or other source outside the Companies, and is distributed within the Companies only to those employees who must have access for business reasons. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in negotiating fuel contracts in the future, and could also be disadvantaged in the wholesale energy market because power production data and fuel costs are important components of energy pricing. All such commercial harms would ultimately harm LG&E's and KU's customers, who would have to pay higher rates if the disclosed information resulted in higher fuel prices or adversely affected the Companies' generation asset procurement process or off-system energy sales. The Commission has granted confidential protection to comparable information in the past.<sup>1</sup> Thus, the Companies seek confidential protection of this information.

2. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure public records or information the disclosure of which is prohibited by federal law or regulation. *See* KRS 61.878(1)(k). The Companies are providing in response to SC 1.21(c) a transmission study that has not yet been made public. The Federal Energy Regulatory Commission's Standards of Conduct concerning such studies (*see* 18 C.F.R. Part 358) prohibit a transmission provider and its employees, contractors, consultants, and agents

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<sup>1</sup> *See, e.g., In the Matter of: Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2011-00162, Letter from Executive Director DeRouen to Allyson Sturgeon (Dec. 9, 2011), *In the Matter of: 2011 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2011-00140, Letter from Executive Director DeRouen to Allyson Sturgeon (Oct. 10, 2011).

from disclosing, or using a conduit to disclose, non-public transmission function information to the transmission provider's marketing function employees or other entities' marketing function employees before the information is made public. Thus, the Companies seek confidential protection of this information until the Companies publicly disclose the study, at which time the Companies will notify the Commission that the study no longer requires confidential protection.

3. Under the Kentucky Open Records Act, the Commission is entitled to withhold records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy. *See* KRS 61.878(1)(a). The Companies are providing in response to SC 1.25 an attachment that contains certain customer-specific usage and other data, the public disclosure of which would constitute such an invasion of privacy. The Companies therefore seek confidential protection for the portions of the attachment that identify specific customer names. The Commission has previously granted confidential protection to such information.<sup>2</sup>

4. Excepting disclosures under confidential protection before this Commission, the Companies have not disclosed any of the above information outside the Companies. The information for which the Companies are seeking confidential treatment is otherwise not known outside of LG&E and KU, is not disseminated within LG&E and KU 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.

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<sup>2</sup> *See* October 31, 2012 Letter from Jeff Derouen to Kendrick Riggs granting confidential protection to Item No. 205 of the Attorney General's First Set of Data Requests in Case No. 2012-00222. The Response to Item No. 205 contained customer-identifying information, including customer names and account numbers.

5. The Companies do not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, to intervenors with legitimate interests in reviewing the same for the purpose of participating in this case.

6. If the Commission disagrees with this request for confidential protection, 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.<sup>3</sup>

7. 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 which confidential protection is sought and one electronic copy with the same information obscured. For the Companies' attachment to their response to SC 1.21(c), because the Companies are seeking confidential protection for the document in its entirety, the Companies are not providing a redacted copy of the confidential material.

8. With the exception of the Companies' attachment to their response to SC 1.21(c), the Companies request that 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. As noted above concerning the Companies' attachment to their response to SC 1.21(c), the Companies will notify the Commission when the transmission study at issue becomes public and no longer requires confidential protection.

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

9. The Companies' response to SC 1.3 is voluminous, containing multiple spreadsheet files totaling over 1.7 gigabytes of data, and would be mostly unintelligible in hard copy format because it is intended to be read on a computer. Therefore, the Companies request permission pursuant to 807 KAR 5:001, Section 22, to deviate from 807 KAR 5:001, Sections 8(3) and 13(2)(e), by submitting to the Commission and serving on intervenors this information on an external hard drive or other appropriate mass-storage device.

**WHEREFORE,** Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission grant confidential protection, or in the alternative, schedule an evidentiary hearing on all factual issues. The Companies further request approval to deviate from the standard filing requirements and submit the above-described information on an external hard drive or other appropriate mass-storage device.

Dated: November 21, 2014

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's November 21, 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 November 21, 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 for Confidential Protection are being mailed to the Commission on November 21, 2014; and that on November 21, 2014, electronic mail notification of the electronic filing will be provided to the following:

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