

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**

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 Items 2.1 and 2.16 of Wallace McMullen and Sierra Club’s Supplemental Data Requests (“SC 2.____,” e.g., “SC 2.1”). 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 SC 2.1 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 request includes 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.¹ Thus, the Companies seek confidential protection of this information.

2. Also to avoid the competitive harm KRS 61.878(1)(c)(1) intends to prevent, the Companies request confidential protection for several documents in their entirety that the Companies are providing in response to SC 2.16. The documents are detailed reports and summaries provided by several third-party vendors that treat the documents and the entirety of their contents as confidential, and which documents and information the vendors have not authorized the Companies to disclose publicly. The documents contain confidential vendor cost estimates, testing data, and intellectual property concerning the vendors' proprietary processes, which if disclosed could adversely affect their ability to compete with similar vendors. Also, the vendors could refuse to do business with the Companies in the future if their confidential and proprietary data and techniques are publicly disclosed, which could harm the Companies'

¹ 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).

customers by limiting the vendors available for the Companies to use. The Companies therefore seek confidential protection for the entirety of these documents.

3. Also to avoid the competitive harm KRS 61.878(1)(c)(1) intends to prevent, the Companies request confidential protection for the entirety of a contract and contract summary the Companies are providing in response to SC 2.16. The contract and contract summary disclose the details of the Companies' arrangement with a vendor of mercury-control technology that, if disclosed publicly, could harm the vendor in future negotiations with other potential purchasers. Public disclosure of these documents could also harm the Companies' ability to negotiate competitively for similar materials and services in the future, which could result in harm to the Companies' customers. The Companies therefore seek confidential protection for the entirety of these documents.

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.

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.²

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' attachments to their response to SC 2.16, because the Companies are seeking confidential protection for the affected documents in their entirety, the Companies are not providing a redacted copy of the confidential material.

8. 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.

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.

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

Dated: December 22, 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 December 22, 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 December 22, 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 hand delivered to the Commission on December 22, 2014; and that on December 22, 2014, electronic mail notification of the electronic filing will be provided to the following:

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