

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND)
ELECTRIC COMPANY FOR AN)
ADJUSTMENT OF ITS ELECTRIC AND GAS) CASE NO. 2014-00372
RATES)

PETITION OF LOUISVILLE GAS AND ELECTRIC COMPANY
FOR CONFIDENTIAL PROTECTION

Louisville Gas and Electric Company (“LG&E” or the “Company”) hereby petitions 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 LG&E seeks to provide in response to Items 7 and 35 of the Attorney General’s Supplemental Requests for Information.¹

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

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure certain commercial information. KRS 61.878(1)(c). To qualify for this 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. Request No. 7 asks the Company to provide information related to settlements resulting from claims against the Company. Publicly disclosing the nature of the claim and additional case information would allow future counterparties and their counsel to have detailed information about the Company’s settlement practices—practices which are

¹ In accordance with 807 KAR 5:001, Section 8(12)(b), a copy of this Petition’s electronic transmission receipt is affixed to the paper copy of the Petition being submitted to the Commission. None of the documents attached to the Petition require redaction under the Commission’s regulation, 807 KAR 5:001, Section 4(10).

confidential to the Company and its legal counsel. Future counterparties could use this information to their advantage and to the disadvantage of the Company. Additionally, the Company and its counterparties generally consider as confidential the settlement agreements they enter into.² The Commission has granted confidential protection to similar information in prior proceedings.³

Confidential Personal Information (KRS 61.878(1)(a))

2. Moreover, requiring disclosure of the case name or counterparty name, and information pertaining to the nature of the claim would allow the public to easily identify the Company's counterparty, thereby also violating the expectation of privacy embodied by KRS 61.878(1)(a) for "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." The Commission has granted confidential protection to similar information in prior proceedings.⁴

**Confidential Information Protected from Disclosure by Federal Law
(KRS 61.878(1)(k))**

3. 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. KRS 61.878(1)(k). Request No. 35 requests information regarding the Company's transmission study provided in response to Request No. 26(b) of the Sierra Club's (and Wallace McMullen's) Initial Data Requests. In response, the Company is providing information regarding the transmission study, which has not yet been made public. The Federal Energy Regulatory Commission's Standards of Conduct concerning such studies (*see* 18 C.F.R.

² Cf. Kentucky Rule of Evidence 408 (making compromises and offers of compromise inadmissible).

³ See, e.g., *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge*, Case No. 2012-00222, Order Regarding Request for Confidential Treatment (Sep. 16, 2013).

⁴ *Id.*

Part 358) prohibit a transmission provider and its employees, contractors, consultants, and agents 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 Company seeks confidential protection of this information until the Company publicly discloses the study, at which time the Company will notify the Commission that the study and information pertaining to it no longer require confidential protection.

4. The information for which LG&E is seeking confidential treatment is not known outside of the Company, and it is not disseminated within LG&E except to those employees with a legitimate business need to know the information

5. LG&E will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors with a legitimate interest in this information and as required by the Commission.

6. If the Commission disagrees with this request for confidential protection, however, it must hold an evidentiary hearing (a) to protect LG&E's 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.⁵

7. In compliance with 807 KAR 5:001, Sections 8 (3) and 13 (2)(e), LG&E is filing with the Commission one paper copy that identifies by highlighting or other means the information for which confidential protection is sought and one electronic copy with the same information obscured.

⁵ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

8. Due to the ongoing sensitive nature of the commercial and personal information at issue, the Company requests that confidential protection be granted for an indefinite period. Regarding the response to Request No. 35, the Company seeks confidential protection of this information until the Company publicly discloses the study, at which time the Company will notify the Commission that the study and information pertaining to it no longer require confidential protection.

WHEREFORE, Louisville Gas and Electric Company respectfully requests that the Commission grant confidential protection for the information described herein.

Dated: February 20, 2015

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

This is to certify that Louisville Gas and Electric Company's February 20, 2015 electronic filing of the 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 February 20, 2015; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of the Petition and an unobscured copy of the material for which confidentiality is sought sealed in an opaque envelope are being hand delivered to the Commission on February 20, 2015.



Kenneth R. Riggs
Counsel for Louisville Gas and Electric Company