

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

**In the Matter of:**

**VERIFIED APPLICATION OF LOUISVILLE )**  
**GAS AND ELECTRIC COMPANY AND )**  
**KENTUCKY UTILITIES COMPANY )**  
**REGARDING ENTRANCE INTO REFINED ) CASE NO. 2015-00264**  
**COAL AGREEMENT, FOR PROPOSED )**  
**ACCOUNTING AND FUEL ADJUSTMENT )**  
**CLAUSE TREATMENT, AND FOR )**  
**DECLARATORY RULING )**

**LOUISVILLE GAS AND ELECTRIC COMPANY AND**  
**KENTUCKY UTILITIES COMPANY'S**  
**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 connection with their Application in the above-captioned proceeding. In support of this Petition, the Companies state as follows:

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

1. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for the exemption and maintain the confidentiality of the information, a party must establish that the material is of a kind generally recognized to be confidential or proprietary, the disclosure of which would permit an unfair commercial advantage to competitors of the party seeking confidentiality.

2. As part of the Companies’ Application in this proceeding, the Companies are providing (1) information about proposals received from third parties and the Companies’

evaluation of those proposals (Exhibits 7 and 8), (2) pricing information related to fees received per ton of refined coal (Exhibits 7 and 8), and (3) technical vendor information provided to the Companies in confidence. (Exhibit 6). This information 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 future negotiations. Counterparties in a competitive market do not want confidential technical information or concessions, including pricing concessions, they have made publically disclosed, to be used against them in their future negotiations with other customers or by their competitors. Counterparties 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 or their other customers. Those entities, and others who might make proposals to the Companies in the future, would not favor public disclosure of this information, and may be less willing to make proposals or respond to requests for proposals, or to offer the Companies concessions. In addition, disclosing information to counterparties about their competitors' proposals would allow them to determine where they might have advantages over other entities. They could use that information to fully exploit any inherent advantages they might have, rather than offering their best proposal, to the disadvantage of the Companies and their customers. Diminishing the Companies' ability to receive the best proposals and contract for the best possible terms would harm both the Companies and their customers through increased costs of service. This information should therefore be afforded confidential protection to protect the Companies and their customers.

3. The Commission has given confidential protection to similar information, including contracts with third parties, in prior proceedings.<sup>1</sup>

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<sup>1</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*

**Confidential Information Protected from Disclosure by State Law**  
**(KRS 61.878(1)(l))**

4. The Kentucky Open Records Act exempts from disclosure certain information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly. KRS 61.878(1)(l).

5. As part of the Companies' Application in this proceeding, the Companies are providing a revenue ruling request submitted to the Kentucky Department of Revenue (Exhibit 9). KRS 131.190(1) requires that information acquired by the Department of Revenue, or "information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation," be treated in a confidential manner. Therefore, the Companies request that the Commission protect this information from public disclosure.

6. The information for which the Companies are seeking confidential treatment is not known outside of the Companies, and in the case of the Refined Coal Agreement and with regard to each entity's proposal, the contract Counterparty or bidder, or with respect to the revenue ruling request, the Department of Revenue. The information 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.

7. 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

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*and Energy-Efficiency Programs*, Case No. 2011-00134, Letter from Executive Director Jeff DeRouen (Aug. 31, 2011).

and (b) to supply with the Commission with a complete record to enable it to reach a decision with regard to this matter.<sup>2</sup>

8. In accordance with 807 KAR 5:001, Section 13(2)(a)(3)(b), the Companies seek confidential protection of the entirety of the revenue ruling request. For the remaining information, 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.

9. Disclosure of confidential bid and pricing information would harm the Companies' ability to obtain bids and price concessions on an ongoing process in the future. Furthermore, the information protected pursuant to KRS 131.190(1) remains confidential indefinitely. The Companies therefore respectfully request that the information identified above be kept confidential indefinitely.

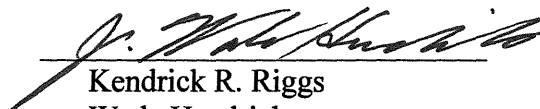
**WHEREFORE**, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission grant confidential protection for the information described herein, or, in the alternative, schedule an evidentiary hearing on all factual issues while maintaining the confidentiality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

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

Dated: August 19, 2015

Respectfully submitted,




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**CERTIFICATE OF COMPLIANCE**

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's August 19, 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 August 19, 2015; 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 Petition and an unobscured copy of the material for which confidentiality is sought, sealed in an opaque envelope, are being mailed to the Commission via overnight delivery on August 19, 2015.

  
Counsel for Louisville Gas and Electric  
Company and Kentucky Utilities Company