

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY)	
UTILITIES COMPANY FOR AN)	
ADJUSTMENT OF ITS ELECTRIC RATES)	CASE NO. 2016-00370
AND FOR CERTIFICATES OF PUBLIC)	
CONVENIENCE AND NECESSITY)	

PETITION OF KENTUCKY UTILITIES COMPANY
FOR CONFIDENTIAL PROTECTION

Kentucky Utilities Company (“KU” 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 KU seeks to provide in response to Items 2-4, 2-7(c), 2-20, 2-21(a), 2-36(b), 2-46, and 2-52 of Lexington Fayette Urban County Government’s (“LFUCG”) Second Request for Information; Item 3-4(a) of the Commission’s Third Request for Information; and Items 2-27(b) and (c) and 2-28(a) of the Attorney General’s (“AG”) Supplemental Data Requests. In support of this Petition, KU states as follows:

Confidential Personal Information – Customer-Identifying Information (KRS 61.878(1)(a))

1. The Kentucky Open Records Act exempts from disclosure certain private and personal information.¹ The identification of specific customers is personal information that should not be in the public domain. The Commission recently granted confidential protection to customer-identifying information, including customer names, account numbers, and usage information.²

¹ KRS 61.878(1)(a).

² *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-000221, Order at 1-2 (Ky. PSC July 25, 2013) (granting confidential protection to customer names, account numbers, and usage information); *In the Matter of: Application of Louisville Gas and Electric Company for an*

2. KU is providing confidential spreadsheets in response to LFUCG Items 2-4 and 2-7(c) that contain customer-identifying information. Because information in the responses to LFUCG Items 2-4 and 2-7(c) identifies specific customers, KU requests through this petition that the Commission protect the entire documents from public disclosure.

3. LFUCG Item 2-36(b) requests a description of “each customer that has unmetered service, including each customer’s facilities, and the amount of estimated energy usage.” In response, KU is providing a document that contains customer names, account numbers, and addresses. This information is personal information that should not be in the public domain. Because the response to LFUCG Item 2-36(b) contains customer-identifying information, KU requests through this petition that the Commission protect the confidential portions of the document from public disclosure.

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

4. The Kentucky Open Records Act exempts from disclosure certain private and personal information.³ AG Item 2-27 requests, in reference to AG Item 1-67, additional information about salaries of replacement employees. KU requested confidential protection of AG Item 1-67 on January 25, 2017. KU’s response to AG Item 2-27(b) and (c) requires confidential protection for the same reasons; disclosure of salary information would constitute an unwarranted invasion of employees’ personal privacy in contravention of KRS 61.878(1)(a). Thus, KU respectfully requests that the Commission grant confidential protection to the

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 at 1-2 (Ky. PSC July 16, 2013) (granting confidential protection to “customer-identifying information such as customer names and account numbers”); *see also In the Matter of: Application of Kentucky-American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year*, Case No. 2012-00520, Order at 4 (Ky. PSC Aug. 1, 2014) (granting confidential protection to the response of Staff Item 77, which contained customer-identifying information like names, account numbers, balance history, and the names of customers qualifying for discounted service); *In the Matter of: DPi Teleconnect, LLC v. Bellsouth Telecommunications, Inc. d/b/a AT&T Kentucky*, Case No. 2005-00455, Letter from Stephanie Stumbo to Mary Keyer (Ky. PSC May 29, 2008).

³ KRS 61.878(1)(a).

responses to AG Item 2-27(b) and (c). Additionally, sections (b) and (d) of AG Item 2-27 make confidential requests to KU. The requests themselves in sections (b) and (d) are confidential because they contain information from the response to AG Item 1-67, for which KU requested confidential protection on January 25, 2017. KU is filing the response to AG Item 2-27(b)-(d) confidentially with the confidential information in the requests and responses highlighted.

**Confidential Information Protected from Disclosure by Federal or State Law
(KRS 61.878(1)(k) and (l))**

5. Tax related documents and information merit confidential protection. KRS 61.878(1)(k) exempts from disclosure “[a]ll public records or information the disclosure of which is prohibited by federal law or regulation.”⁴ Under 26 U.S.C. § 6103(a), state officials are prohibited from publicly disclosing any federal income tax return or its contents. Therefore, federal income tax returns and their content fall within the KRS 61.878(1)(k) exemption from public disclosure. The Commission has previously kept LG&E’s and KU’s tax returns confidential in base rate cases.⁵

6. AG Item 2-28(a) makes a confidential request to KU in reference to AG Item 1-134. The request itself is confidential because it contains information from the response to AG Item 1-134, for which KU requested confidential protection on January 25, 2017. The document provided in response to AG Item 2-28(a) also requires confidential protection because it is a schedule supporting information filed in a federal tax return. Thus, KU requests confidential protection of the entire document provided in response to AG Item 2-28(a).

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

⁴ KRS 61.878(1)(k).

⁵ See, e.g., *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221, Order Regarding Request for Confidential Treatment (Ky. PSC Sep. 18, 2013); *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Base Rates*, Case No. 2008-00252, Letter from Executive Director Derouen (Ky. PSC Feb. 6, 2009).

7. The Kentucky Open Records Act exempts from disclosure information “generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”⁶ The Commission has recently relied on this section of the Kentucky Open Records Act to grant confidential protection to a variety of documents when disclosure would disadvantage the Company.⁷

8. Commission Item 3-4(a) requests the response to Commission Item 2-7 in Excel format. KU requested confidential protection for Commission Item 2-7 on January 25, 2017 and requests confidential protection for Commission Item 3-4(a) for the same reasons. The response to Commission Item 3-4(a) contains equipment costs that are negotiated contract rates with vendors that the Company agreed would remain confidential. Publicly disclosing these costs would negatively impact the Company and its ratepayers because it may harm the relationship with KU and its vendors and its bargaining ability; as a result, KU may have difficulty negotiating favorable costs for equipment in the future. Thus, the Commission should grant confidential protection to the entire response to Commission Item 3-4(a).

9. LFUCG Item 2-21(a) requests the four bid submissions referenced in KU’s response to LFUCG Item 1-57. In response to LFUCG Item 2-21(a), KU is providing the bid submissions. LFUCG Item 2-52 requests information about LED lighting. In response to LFUCG Item 2-52, KU is providing documents that contain pricing information about LED lighting components. The documents provided in response to LFUCG Items 2-21(a) and 2-52 are confidential business information because they disclose bids submitted by competitive bidders. Confidential protection is necessary because disclosure of this information would

⁶ KRS 61.878(1)(c)(1).

⁷ See, e.g., *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order Regarding Request for Confidential Treatment to KIUC’s Initial Request for Information (Ky. PSC Jan 14, 2016) (granting confidential treatment to agreements between the Company and third parties, projected outage schedules, design information, and others).

disrupt the competitive bid process and place KU and its shareholders at a competitive disadvantage for negotiating future agreements. Thus, KU requests confidential protection for the entirety of the documents provided in response to LFUCG Items 2-21(a) and 2-52.

10. LFUCG Item 2-20 requests copies of KU's contract with Davis H. Elliott Company. In response, KU is providing the contract and an amendment to the contract. These documents are confidential business information and contain concessions made to reach an agreement by KU and Davis H. Elliott Company during their bargaining process. Confidential protection of these documents is necessary because disclosure would harm KU's relationship with Davis H. Elliott Company and other potential service providers. Thus, KU requests confidential protection for the entire documents provided in response to LFUCG Item 2-20.

11. LFUCG Item 2-46 requests copies of certain referenced spreadsheets. In response, KU is providing two spreadsheets concerning street lighting. These spreadsheets contain confidential business information in the form of vendor names and component pricing information. The public disclosure of the vendor names would impair the Company's relationships with the vendors and may cause the Company to have difficulty negotiating favorable prices in the future. Further, disclosure of the pricing information would impair the Company's ability to obtain the most reasonable prices for components in the competitive marketplace in the future. KU requests with this petition that the Commission protect from public disclosure the entire document provided in response to LFUCG Item 2-46.

The Confidential Information Subject to this Petition

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

13. KU 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.

14. If the Commission disagrees with this request for confidential protection, however, it must hold an evidentiary hearing (a) to protect KU's 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.⁸

15. Unless otherwise noted, in compliance with 807 KAR 5:001, Sections 8(3) and 13(2)(e), KU 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. KU is filing a CD containing the requested confidential Excel files for its responses to Commission Item 3-4(a) and LFUCG Items 2-4, 2-7(c), and 2-46. Pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b), confidential treatment is sought for the entire documents produced in response to LFUCG Items 2-4, 2-7(c), 2-20, 2-21(a), 2-46, and 2-52, AG Item 2-28(a), and Commission Item 3-4(a).

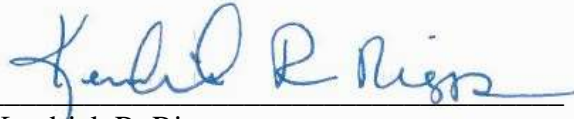
16. KU requests that confidential protection be granted for five years due to the sensitive nature of the information at issue.

WHEREFORE, Kentucky Utilities Company respectfully requests that the Commission grant confidential protection for the information described herein.

⁸ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

Dated: February 20, 2017

Respectfully submitted,

A handwritten signature in blue ink that reads "Kendrick R. Riggs". The signature is written in a cursive style and is positioned above a horizontal line.


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Counsel for Kentucky Utilities Company

CERTIFICATE OF COMPLIANCE

This is to certify that Kentucky Utilities Company's February 20, 2017 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, 2017; 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 hand delivered to the Commission on February 20, 2017.

A handwritten signature in blue ink, reading "Gerald R. Nigro", is written over a horizontal line.

Counsel for Kentucky Utilities Company