

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

**In the Matter of:**

<b>THE APPLICATION OF LOUISVILLE</b>	)	
<b>GAS AND ELECTRIC COMPANY FOR</b>	)	
<b>AN ORDER AUTHORIZING THE</b>	)	<b>CASE NO. 2017-00081</b>
<b>ISSUANCE OF SECURITIES AND</b>	)	
<b>THE ASSUMPTION OF OBLIGATIONS</b>	)	

**LOUISVILLE GAS AND ELECTRIC COMPANY’S  
PETITION FOR CONFIDENTIAL PROTECTION**

Louisville Gas and Electric Company (“LG&E” or the “Company”) 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 the Company is providing with its Application in the above-captioned proceeding. In support of this Petition, LG&E states as follows:

1. The Kentucky Open Records Act exempts from disclosure certain commercial information.<sup>1</sup> 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 as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”<sup>2</sup>

2. In LG&E’s Application in the above-captioned proceeding, LG&E is filing a copy of the Trimble County Generating Station Coal Combustion Residuals Treatment Project Engineering, Procurement and Construction Agreement Between Louisville Gas and Electric Company, and Kentucky Utilities Company, and Illinois Municipal Electric Agency, collectively, as Owner and Amec Foster Wheeler Kamtech, Inc. as Contractor (“Amec” contract). The filed

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<sup>1</sup> KRS 61.878(1)(c).

<sup>2</sup> *Id.*

copy of the Amec contract contains limited redactions to protect confidential information from public disclosure.

3. The redacted confidential information in the Amec contract includes pricing information, insurance provisions, and commercially sensitive terms. Disclosure of this confidential information would hinder LG&E's ability to receive the best proposals and procure the best contract terms in future negotiations. Counterparties in a competitive market do not want confidential information or concessions they have made publicly disclosed because such information could 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 will not be known to their competitors or their other customers. The Amec contract parties, 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, respond to requests for proposals, or offer LG&E concessions if the information is disclosed.

4. In addition, disclosing information to counterparties about their competitors' proposals would allow them to determine where they might have advantages over other entities. The counterparties could use the information to fully exploit any inherent advantages they might have, rather than offering their best proposal, to the disadvantage of the Company and its customers. Diminishing LG&E's ability to receive the best proposals and contract for the best possible terms would harm both LG&E and its customers through increased costs of service. The confidential information in the Amec contract should therefore be afforded confidential protection to protect LG&E and its customers.

5. Such information is generally recognized as confidential and proprietary information in the energy industry. The Commission has given confidential protection to similar information, including contracts with third parties, in prior proceedings.<sup>3</sup>

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

7. 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.

8. 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 the Commission with a complete record to enable it to reach a decision with regard to this matter.<sup>4</sup>

9. 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 the information for which confidential protection is sought and one electronic copy with the same information obscured.

10. LG&E requests that confidential protection be granted for five years due to the sensitive nature of the information at issue.

**WHEREFORE**, Louisville Gas and Electric Company respectfully requests that the Commission grant confidential protection to the information designated as confidential.

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<sup>3</sup> See, e.g., *In the Matter of: Application of Louisville Gas and Electric Company and Kentucky Utilities Company Regarding Entrance into Refined Coal Agreements, for Proposed Accounting and Fuel Adjustment Clause Treatment, and for Declaratory Ruling*, Case No. 2015-00264, Order (Ky. PSC Jan. 13, 2016) (granting confidential protection to information that contained technical vendor information, third party proposals, and pricing information); *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 and Energy-Efficiency Programs*, Case No. 2011-00134, Letter from Executive Director Jeff DeRouen (Ky. PSC Aug. 31, 2011).

<sup>4</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

DATED: February 24, 2017

Respectfully submitted,

*Monica H. Braun*

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**CERTIFICATE OF COMPLIANCE**

This is to certify that Louisville Gas and Electric Company's February 24, 2017 electronic filing of this Petition 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 24, 2017; that there are currently no parties the Commission has excused from participation by electronic means in this proceeding and that an original paper medium of the Petition is being mailed, by first class United States mail, postage prepaid, to the Commission on February 24, 2017.

*Marcia H. Braun*

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