

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

**In the Matter of:**

**ELECTRONIC APPLICATION OF )**  
**LOUISVILLE GAS AND ELECTRIC ) CASE NO. 2018-00295**  
**COMPANY FOR AN ADJUSTMENT OF ITS )**  
**ELECTRIC AND GAS RATES**

**PETITION OF LOUISVILLE GAS AND ELECTRIC COMPANY**  
**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 information described herein, which LG&E is providing as a supplemental response to the Kentucky Attorney General’s Initial Data Requests Item No. 177(d) in the above-captioned proceeding. In support of this Petition, LG&E states as follows:

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

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> The Commission has routinely relied on this section of the Kentucky Records Act to grant confidential protection to third-party documents when disclosure would disadvantage the Company.<sup>3</sup>

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

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

<sup>3</sup> See, e.g., *In the Matter of: Electronic Application of Kentucky Utilities Company for an Order Authorizing the Issuance of Securities and Assumption of Obligations and an Order Amending and Extending Existing Authority with Respect to Revolving Line of Credit*, Case No. 2018-00153, Order (Ky. PSC Aug. 22, 2018) (granting

2. In the attachment provided in its supplemental response to Attorney General Request No. 1-177(d), LG&E is providing the Company's historical quartile performance according to an industry distribution reliability benchmarking survey. The quartile performance data is confidential, commercially sensitive, and merits confidential treatment pursuant to KRS 61.878(1) and Commission precedent.

3. The reliability performance information is subject to strict confidentiality agreements between the Company and the survey organization. Information obtained from these industry surveys, even aggregate data, belongs not to the survey entities but to each participating member. Maintaining the confidentiality of information derived from the surveys is central to the value of the surveys themselves. Each participant pays to participate in the survey and pays for the right to receive the results. If such information were publicly disclosed, there would be no commercial value to participation in the surveys. Absent confidential treatment, disclosure of this information would not only jeopardize the Companies' continued participation in such surveys, but would jeopardize the viability of the surveys altogether.

4. LG&E derives significant value from participating in industry reliability benchmarking surveys, including the ability to assess and respond to industry trends, assess its own reliability performance compared to benchmarked utilities, identify areas where it is performing well, and identify areas where improvement is needed. This value would be lost if LG&E is precluded from future participation in industry surveys due to unauthorized public disclosure of survey information.

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confidential treatment of contracts with third parties containing commercially sensitive terms that could hinder both parties in future business dealings if publicly disclosed); *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates*, Case No. 2014-00372, 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, and design information).

5. LG&E has provided substantially similar industry benchmarking results to the Attorney General in previous cases under a petition for confidential treatment, and confidential treatment of the information has not been contested or denied.<sup>4</sup>

6. The information for which LG&E is seeking confidential treatment is not known outside of the Company and their 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>5</sup>

9. Pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b), confidential treatment is sought for the entire document produced in response to AG 1-177(d). As required by 807 KAR 5:001, Section 13(2)(a)(3)(b), written notification that the entire document is confidential is filed in lieu of highlighting.

10. LG&E requests that confidential protection be granted indefinitely, subject to future orders of the Commission, 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.

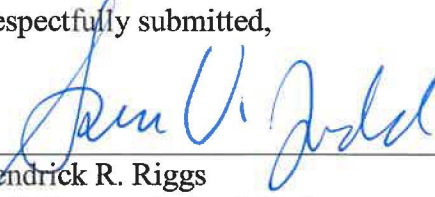
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<sup>4</sup> *In the Matter of: Application of Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00371, Petition of Louisville Gas and Electric Company for Confidential Protection, at 7 (Ky. PSC Jan 25, 2017). No objection was made to the request and no order was entered thereon.

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

Dated: December 7, 2018

Respectfully submitted,



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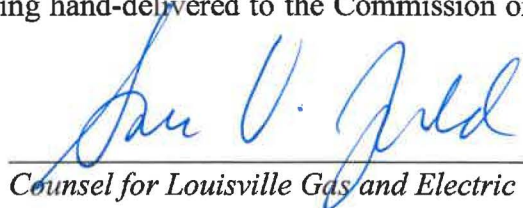
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*Counsel for Louisville Gas and Electric Company*

**CERTIFICATE OF COMPLIANCE**

This is to certify that Louisville Gas and Electric Company's December 7, 2018 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 December 7, 2018; 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 December 7, 2018

  
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*Counsel for Louisville Gas and Electric Company*