

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)
KENTUCKY UTILITIES COMPANY AND)
LOUISVILLE GAS AND ELECTRIC)
COMPANY FOR AN ORDER) **CASE NO. 2018-00304**
APPROVING THE ESTABLISHMENT OF)
REGULATORY LIABILITIES AND)
REGULATORY ASSETS)

PETITION FOR CONFIDENTIAL PROTECTION

Kentucky Utilities Company (“KU”) and Louisville Gas and Electric Company (“LG&E”) (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 information described herein, which the Company is providing in response to the Attorney General’s (“AG”) Initial Data Requests for Information, Item No. 6(b) in the above-captioned proceeding. In support of this Petition, the Companies state as follows:

1. The Kentucky Open Records Act exempts from disclosure certain commercial information.¹ 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.”²

2. In the attachment provided in response to AG Request No. 6(b), the Companies are providing contractor rates and contractor costs of contractors that provided work for the Companies in the aftermath of the July 2018 Storm. The filed copies of the contracts contain

¹ KRS 61.878(1)(c).

² *Id.*

limited redactions to protect confidential contractor rates and contractor costs from public disclosure.

3. Disclosure of this confidential information would hinder the Companies' ability to receive the best proposals from contractors and procure the best contractor rates 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 contractor 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 the Companies 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 Companies and its 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. The confidential information in the attachment provided in response to AG Request No. 6(b) should therefore be afforded confidential protection to protect the Companies and their customers.

5. Such information is generally recognized as confidential and proprietary information in the energy industry. The Commission has recently granted confidential protection to pricing information.³

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

7. The Companies 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 the Companies' 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.⁴

9. 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.

³ *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); *see also 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).

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

10. The Companies request that confidential protection be granted for five years due to the sensitive nature of the information at issue.

WHEREFORE, Kentucky Utilities Company and Louisville Gas and Electric Company respectfully request that the Commission grant confidential protection to the information designated as confidential.

Dated: October 15, 2018

Respectfully submitted,



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*Counsel for Kentucky Utilities Company and
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CERTIFICATE OF COMPLIANCE

This is to certify that Kentucky Utilities Company's and Louisville Gas and Electric Company's October 15, 2018 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 October 15, 2018; that there are currently no parties the Commission has excused from participation by electronic means; and that an original in paper medium of the Petition will be filed with the Commission within two business days from the date of the electronic filing.

A handwritten signature in blue ink, reading "Gerald R. Riggs". The signature is written in a cursive style with a horizontal line at the end.

*Counsel for Kentucky Utilities Company and
Louisville Gas and Electric Company*