

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**JOINT ELECTRONIC APPLICATION OF)
LOUISVILLE GAS AND ELECTRIC)
COMPANY, MEADE COUNTY RURAL)
ELECTRIC COOPERATIVE)
CORPORATION, AND BIG RIVERS)
ELECTRIC CORPORATION FOR)
APPROVAL OF AN AGREEMENT)
MODIFYING AN EXISTING TERRITORIAL)
BOUNDARY MAP AND ESTABLISHING)
MEADE COUNTY RECC AS THE RETAIL)
ELECTRIC SUPPLIER FOR NUCOR)
CORPORATION’S PROPOSED STEEL)
PLATE MILL IN BUTTERMILK FALLS)
INDUSTRIAL PARK IN MEADE COUNTY,)
KENTUCKY)**

CASE NO: 2019-00370

**JOINT PETITION
FOR CONFIDENTIAL PROTECTION**

Louisville Gas and Electric Company (“LG&E”), Meade County Rural Electric Cooperative Corporation (“Meade RECC”), and Big Rivers Electric Corporation (“Big Rivers”) (collectively, the “Joint Petitioners”) hereby 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 redacted portions of the Settlement Agreement and Contract Pursuant to KRS 278.018(6) (the “Agreement”), which is attached as Exhibit 1 to the Joint Application, territorial boundary maps, which are attached as Exhibits 1 and 2 to the Agreement, and Big Rivers’ wires-to-wires interconnection request of June 5, 2019 (“New Interconnection”), which is attached as Exhibit 3 to the Agreement, collectively filed on October 18, 2019.

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

1. 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.”¹

2. Attached to the Joint Application as Exhibit 1 is the Joint Petitioners’ Agreement. This Agreement is a product of extensive negotiations. Portions of the Agreement merit confidential protection because they contain confidential business information, namely the amount of compensation and the term over which Big Rivers will compensate LG&E for the modification of an existing territorial boundaries map.

3. The disclosure of this financial information could provide insight into the Joint Petitioners’ approaches to the recruitment of new customers and additional load and their methodologies for evaluating the cost and value of providing electric service to potential economic development projects. If third parties, such as local or state governments and economic development agencies, are permitted access to this information, they could use this information in the development of their economic incentive packages to unfairly compete against the Joint Petitioners, the Commonwealth of Kentucky, and Kentucky local governments for economic development projects. Similarly, businesses within the Commonwealth that are seeking to expand could use this information to obtain much more favorable terms from any of the Joint Petitioners when negotiating for electric service for plant expansions or other economic development projects.

4. Disclosing the information in issue could place each of the Joint Petitioners at a competitive disadvantage in their efforts to expand their customer base and more efficiently use their existing capacity. These harms may ultimately harm customers of the Joint Petitioners if

¹ KRS 61.878(1)(c)(1).

customer rates increase due to the disclosure of this sensitive information. Thus, the Joint Petitioners are seeking confidential protection for the highlighted portions of the Agreement.

5. The Kentucky Public Service Commission (“Commission”) has on file a territorial boundary map known as “MAUCKPORT, IND.-KY: 24-E-3A.” A copy is attached as Exhibit 1 to the Agreement. Pursuant to the Agreement, the Joint Applicants are proposing a modification to this territorial boundary map as shown in Exhibit 2 to the Agreement. Joint Petitioners are requesting both maps contained in Exhibits 1 and 2 to the Agreement be afforded confidential protection. The Commission considers the information contained on such maps to constitute critical infrastructure records under KRS 61.878(1)(m).1.f and thus excluded from the application of KRS 61.870 to 61.884. The Commission previously afforded similar information confidential protection.²

6. Big Rivers’ New Interconnection is attached as Exhibit 3 to the Agreement. The information contained in the New Interconnection constitutes non-public transmission information which cannot be publically disclosed under the Federal Energy Regulatory Commission’s (“FERC’s”) Standards for Conduct for Transmission Providers under FERC Order No. 717, Docket No. RM07-1-000 (October 16, 2008). Specifically, the “no-conduit rule” established by FERC in Order No. 717 prohibits passing non-public transmission function information to marketing function employees. Public disclosure of Big Rivers’ New Interconnection could cause Joint Petitioners to violate this rule.

7. To the Joint Petitioners’ knowledge, the information for which the Joint Petitioners are seeking confidential treatment is not known outside of the Joint Petitioners and their counsel. It is not disseminated within the Joint Petitioners’ organization except to those employees and

² *In the Matter of: Electronic Application of Duke Energy Kentucky, Inc. For Authorization Of Partial Changes In Service Territory With Owen County Electric Cooperative, Inc.*, Case No. 2019-00126, Order, p.3, ftnt. #11 (August 29, 2019)

representatives with a legitimate business need to know and act upon the information, and in the case of Big Rivers' New Interconnection, only to employees of Joint Petitioners who are authorized to review such information under FERC's Order No. 717.

8. The Joint Petitioners will disclose the confidential information as required by the Commission or as required by law, a court of competent jurisdiction, or any other governmental or administrative agency having supervisory authority over the Joint Petitioners.

9. If the Commission disagrees with this request for confidential protection, however, it must hold an evidentiary hearing (a) to protect the Joint Petitioners' 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.³

10. In compliance with 807 KAR 5:001, Section 8(3) and 13(2)(e), the Joint Petitioners are filing with the Commission one paper copy of the Settlement Agreement that identifies by highlighting the information for which confidential protection is sought and one electronic copy with the same information obscured. The Joint Petitioners consider the entire contents of Exhibits 1, 2 and 3 of the Settlement Agreement to be confidential and are filing written notification of such in lieu of the required highlighting in compliance with 807 KAR 5:001, Section 13(2)(a)3.b.

11. Pursuant to the Agreement, Big Rivers has agreed to compensate LG&E over a period of years for modification of territorial boundary lines. Because of the length of time detailed in the Agreement, the Joint Petitioners request that confidential protection be granted for an indefinite period.

³ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

12. Because the Commission deems information contained on territorial boundary maps to be to constitute critical infrastructure records under KRS 61.878(1)(m).1.f, and thus excluded from the application of KRS 61.870 to 61.884, the Joint Petitioners request that confidential protection in the two territorial boundary maps be granted for an indefinite period.

13. Because of the requirements in FERC Order No. 717, the Joint Petitioners request that confidential protection in Big Rivers' New Interconnection be granted for an indefinite period.

WHEREFORE, Louisville Gas and Electric Company, Meade County Rural Electric Cooperative Corporation, and Big Rivers Electric Corporation respectfully request that the Commission grant confidential protection for the information described herein.

Dated: October 18, 2019

Respectfully submitted,



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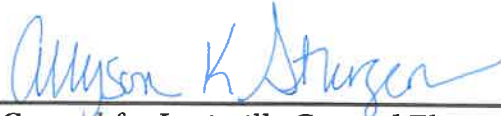
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CERTIFICATE OF COMPLIANCE

This is to certify that the Joint Petitioners' October 18, 2019 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 October 18, 2019; 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 October 18, 2019.



Counsel for Louisville Gas and Electric Company