

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
LOUISVILLE GAS AND ELECTRIC)	
COMPANY AND KENTUCKY UTILITIES)	
COMPANY FOR APPROVAL OF A SOLAR)	CASE NO. 2020-00016
POWER CONTRACT AND TWO)	
RENEWABLE POWER AGREEMENTS TO)	
SATISFY CUSTOMER REQUESTS FOR A)	
RENEWABLE ENERGY SOURCE UNDER)	
GREEN TARIFF OPTION #3)	

JOINT PETITION OF
LOUISVILLE GAS AND ELECTRIC COMPANY
AND KENTUCKY UTILITIES COMPANY
FOR CONFIDENTIAL PROTECTION

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”) petition the Public Service Commission of Kentucky (“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 Companies seek to provide as exhibits to the Application, in the Direct Testimony of David S. Sinclair, and as exhibits to Mr. Sinclair’s Testimony. In support of this Joint Petition, the Companies state as follows:

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure commercially sensitive information to the extent that open disclosure would permit an unfair commercial advantage to competitors of the entity disclosing the information to the Commission. See KRS 61.878(1)(c). Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. *The Power Purchase Agreement Among Rhudes Creek Solar, LLC, Louisville Gas and Electric Company and Kentucky Utilities Company*, dated November 21, 2019 (“Solar Power

Contract”) is attached as Exhibit 1 to the Application. The highlighted portions of the Solar Power Contract state the agreed upon Solar Energy Payment Rate that the Companies will pay Rhudes Creek Solar, LLC (“Rhudes Creek Solar”) for the solar energy and should be afforded confidential protection. Similarly, the Renewable Power Agreements (“RPAs”), attached as Exhibit 2 and Exhibit 3 to the Application, contain the price each industrial customer will pay for the renewable energy. Public disclosure of this information would adversely affect the Companies’ abilities to obtain the most favorable prices for such services in the competitive marketplace and to negotiate rates for similar services in the future. Furthermore, the Solar Power Contract contains a provision¹ requiring the parties to limit their disclosure of confidential information. Thus, the Companies have a contractual obligation to refrain from disclosing to the public the Solar Power Contract’s pricing terms. The public disclosure of this information is likely to reduce the willingness of Rhudes Creek and similar entities to contract or otherwise transact business with the Companies in the future. Accordingly, the Companies request confidential protection for the highlighted portions of the Solar Power Contract and the RPAs.

3. In his testimony, Mr. David Sinclair discusses the responses to the Renewable Request for Proposals (“Renewable RFP”), describes the screening analysis performed on those responses, and reviews the Solar Power Contract’s pricing terms. His testimony includes graphs and tables showing bid prices and other analysis factors. Throughout his testimony he discusses projected fuel prices, and revenue requirements and energy cost savings based on the projected prices. Portions of Mr. Sinclair’s testimony are based on information that the Companies’ personnel developed internally, is not on file with any public agency or available from any

¹ *The Power Purchase Agreement Among Rhudes Creek Solar, LLC, Louisville Gas and Electric Company and Kentucky Utilities Company*, November 21, 2019, Article 20.12.

commercial or other source outside the Companies. Such information is distributed within the Companies only to those employees who must have access for business reasons.

4. Public disclosure of the highlighted portions of Mr. Sinclair's District Testimony will adversely affect the Companies in several respects. It will violate the Companies' contractual obligation to refrain from disclosing to the public the Solar Power Contract's pricing terms. It is likely to reduce the willingness of Rhudes Creek and similar entities to contract or otherwise transact business with the Companies in the future. Public disclosure of pricing information will also place the Companies at a considerable disadvantage when negotiating future contracts and could disadvantage them in the wholesale energy market because power production data is an important component of energy pricing. It will provide insight into the Companies' cost of producing power and indicate the prices at which the Companies are willing to sell and purchase power. Public disclosure of information contained in the responses to the Renewable RFP prejudice bidding vendors by allowing their competitors access to sensitive operational and pricing information concerning their projects.

5. The "2019 Resource Assessment: Renewable RFP" is attached as Exhibit DSS-2 to Mr. Sinclair's Direct Testimony. It outlines the responses to the Renewable RFP and presents the screening analysis used for comparison of those responses. The lowest cost proposals from the screening analysis are referenced throughout the document and presented in tables that include prices and other analysis factors. The document also contains projected fuel prices, and revenue requirements and energy cost savings based on the projected prices. It further contains the bids and variations of bids submitted by competitive bidders to supply renewable energy power, as well as each bidder's name, a description of each proposal, and the proposed project location for each bid.

6. The “2019 Resource Assessment: Renewable RFP” details the Companies’ process for selecting a bidder. Confidential protection of the competitive bid information is necessary because disclosure would disrupt the competitive bid process and reveal the Companies’ internal analysis of bids to the detriment of the Companies and their ratepayers. Public disclosure would also prejudice each bidding vendor by allowing its competitors to know how it offers and prices its projects. The public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. Thus, the Companies request confidential protection for the entirety of the “Response Summary” spreadsheet and the highlighted portions of the “2019 Resource Assessment: Renewable RFP” document.

7. Furthermore, the projected cost of fuel information and the revenue requirements and energy cost savings based on the projected prices are developed internally by the Companies’ personnel, are not on file with any public agency, are not available from any commercial or other source outside the Companies, and are distributed within the Companies only to those employees who must have access for business reasons. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in negotiating contracts in the future, and could also be disadvantaged in the wholesale energy market because power production data is an important component of energy pricing. Public disclosure would provide insight into the Companies’ cost of producing power and would indicate the prices at which the Companies are willing to sell power. Public access of this information would impact the Companies’ ability to negotiate with prospective contractors and vendors, and could harm the Companies’ competitive position in the wholesale power market. All such commercial harms would ultimately harm the Companies’ customers, who would have to pay higher rates if the disclosed information resulted in higher production prices.

8. The information for which the Companies are seeking confidential treatment is not known outside of the Companies and its counsel.² It is not disseminated within LG&E and KU except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information in the energy industry.

9. The Companies will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors, if any, with a legitimate interest in this information and as required by the Commission.

10. If the Commission disagrees with this request for confidential protection, 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. Utility Regulatory Commission v. Kentucky Water Service Company, Inc., Ky. App., 642 S.W.2d 591, 592-94 (1982).

11. In compliance with 807 KAR 5:001, Sections 8(3) and 13(2)(e), LG&E and KU 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.


12. LG&E and KU request that the information be kept confidential for at least five years from the date of this filing as that is the amount of time necessary before the confidential information becomes dated to the point that the need for protection no longer exists.

² The individual bidders who submitted their respective confidential bid information are not privy to the other bidders' confidential information for which the Companies are seeking protection in this proceeding.

WHEREFORE, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission grant confidential protection for the information described herein.

Dated: January 23, 2020

Respectfully submitted,

A handwritten signature in blue ink, reading "Kendrick R. Riggs", is written over a horizontal line. The signature is cursive and appears to be on a light-colored background.

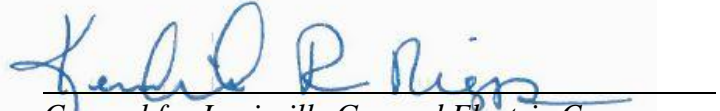
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*Counsel for Louisville Gas and Electric Company
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CERTIFICATE OF COMPLIANCE

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's January 23, 2020 electronic filing of the Joint 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 January 23, 2020; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original 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 within two business days from the date of the electronic filing.



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