

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 in response to Item Nos. 1(c), 5(b) and 5(d)(2), 9, and 10 of Commission Staff’s Second Request for Information and Item Nos. 19 and 26 of the Attorney General’s Supplemental Request for Information. 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. Item No. 1(c) of Commission Staff's Second Request for Information requests a calculation of the estimated fuel savings for the 25 percent of the energy purchased under the purchase power agreement ("PPA") that will be allocated to the Companies' native load customers and that will displace higher-cost energy in the economic dispatch of the Companies' fossil fuel generation units. In response, the Companies are providing two attachments. Attachment 1 is an Excel spreadsheet showing the net present value revenue requirement effects of the contract under various pricing scenarios. It contains projected fuel prices and revenue requirements and energy cost savings based upon projected prices. Attachment 2 is an Excel spreadsheet that contains the detailed hourly calculation of energy cost savings from displaced generation for one of the scenarios contained in Attachment 1. Attachment 2 shows for each hour the displaced units, decremental generation costs, rank of the displaced MWh by generation cost, solar generation, decremental energy, and resulting displaced energy costs. The information contained in Attachments 1 and 2 is developed internally by the Companies' personnel, is not on file with any public agency, is not available from any commercial or other source outside the Companies, and is distributed within the Companies only to those employees who must have access for business reasons. The public disclosure of this information 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 access to 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.

3. Item No. 5(b) of Commission Staff's Second Request for Information requests the ramping capabilities of the Companies' coal-fired generation. In response, the Companies have provided a table listing the target ramp rate and summer capacity rating of each of its coal-fired generation units. Public disclosure of the target ramp rate of these units will adversely affect the Companies. It will reveal the sensitive information about the physical flexibility of the Companies' generation fleet and the Companies' ability to meet fluctuations in load demands that if disclosed could adversely disadvantage it in the wholesale power market by providing insight into the Companies' ability to meet load demands. This information is generally limited within the Companies only to those employees who must have access for operational or planning reasons.

4. Item No. 5(d)(2) of Commission Staff's Second Request for Information requests the actual fuel savings achieved in 2019 from the operation of the Companies' Brown solar facility. In response, the Companies have provided as an attachment an Excel spreadsheet containing detailed calculations of the savings. This spreadsheet contains actual hourly incremental energy costs and the prices and broker fees for specific Renewable Energy Certificate ("REC") sales. The Companies request confidential treatment of this spreadsheet. This information is developed internally by the Companies' personnel, is not on file with any public agency, is not available from any commercial or other source outside the Companies, and is distributed within the Companies only to those employees who must have access for business reasons. The public disclosure of this information will provide insight into the Companies' cost of producing power and the prices that the Companies have obtained for REC sales. Public access to this information would adversely affect 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.

5. Items No. 9 and No. 10 request current bills for Toyota Motor Manufacturing Kentucky, Inc. and Dow Silicones Corporation respectively and sample bills for the same period reflecting the rates and credits had the renewable power agreements ("RPAs") been in effect for that billing period. The response contains specific customer account information, including billing data, about these two customers.

a. The Kentucky Open Records Act exempts from disclosure certain private and personal information.¹ The requested information is personal information that should not be in the public domain. The Commission has previously granted confidential protection to similar information.²

b. Disclosure of the sample bill for each customer will also reveal the price that each will pay for the renewable energy under its RPA and the Solar Energy Payment Rate that the Companies will pay Rhudes Creek Solar, LLC ("Rhudes Creek") under the PPA. 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 provision³ 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

¹ KRS 61.878(1)(a).

² *Application of Duke Energy Kentucky, Inc. for: (1) An Adjustment of the Electric Rates; (2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; (3) Approval of New Tariffs; (4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) All Other Required Approvals and Relief*, Case No. 2017-00321, Order (Ky. PSC May 3, 2018) (granting confidential protection to specific customer account information, including account numbers and billing data).

³ *The Power Purchase Agreement Among Rhudes Creek Solar, LLC, Louisville Gas and Electric Company and Kentucky Utilities Company*, November 21, 2019, Article 20.12.

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.

6. Item No. 19 of the Attorney General's Supplemental Request for Information requests the yearly average cost of the PPA for the Companies' average residential customer. In their response, the Companies have provided a range of the average residential customer impacts based upon various projected pricing scenarios. Disclosure of these impacts will reveal pricing projections and assumptions that 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. The public disclosure of this information will provide insight into the Companies' cost of producing power. Public access to this information would adversely affect the Companies' ability to negotiate with prospective contractors and vendors and could harm the Companies' competitive position in the wholesale power market. The Companies requests confidential protection for the highlighted portions of the response.

7. Item No. 26 of the Attorney General's Supplemental Request for Information requests a comparison of certain finalist proposals with the selected proposal with a special emphasis on the price effects to all of the Companies' customers, except the parties to the RPA. In the highlighted portion of their response, the Companies have provided a comparison of the pricing information of these proposals with the Solar Energy Payment Rate set forth in the PPA. Confidential protection of this 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 these finalists by allowing

its competitors to know how each offers and prices its projects. The public disclosure of this information would create competitive harm of the nature that KRS 61.878(1)(c)(1) is designed to prevent.⁴

8. The information for which the Companies are seeking confidential treatment is not known outside of the Companies and its counsel. 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 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. Because of the size of the Excel files, LG&E and KU request a deviation from the rule in 807 KAR 5:001, Section 13(2)(a)3 that provides the filing party must file one copy of the confidential material in paper medium with the Commission. The Companies are requesting permission to instead file with the Commission on a portable electronic storage medium the Excel spreadsheets submitted in response to Items No. 1(c) and 5(d)(2). If printed these spreadsheets would be approximately 14,000 pages and 8,400 pages respectively. All of the contents of the

⁴ To the extent that the response also states the amount of the Solar Energy Rate, the arguments set forth in Paragraph 5b of this Petition also support affording confidential protection to the highlighted portions of the Companies' Response to the Attorney General's Supplemental Request.

Excel files submitted in response to Item No. 1(c) should be considered confidential. The Excel file submitted in response to Item No. 5(d)(2) identifies by highlighting the information that is considered confidential. The Companies further request a deviation from 807 KAR 5:001, Section 8(3) to the extent that it requires the submission in paper medium of a redacted copy of the Excel files submitted in response to Item Nos. 1(c) and 5(d)(2). The Excel files in response to Item Nos. 1(c) and 5(d)(2) will also be uploaded to the Companies' secure file sharing site for viewing by Commission Staff and the Attorney General.

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.

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

Dated: February 26, 2020

Respectfully submitted,



Kendrick R. Riggs
Stoll Keenon Ogden PLLC
500 West Jefferson Street, Suite 2000
Louisville, Kentucky 40202
Telephone: (502) 333-6000
Fax: (502) 333-6099
kendrick.riggs@skofirm.com

Allyson K. Sturgeon
Managing Senior Counsel
Regulatory and Transactions
Sara V. Judd
Senior Corporate Attorney
LG&E and KU Services Company
220 West Main Street

Louisville, Kentucky 40202
Telephone: (502) 627-2088
Fax: (502) 627-3367
allyson.sturgeon@lge-ku.com
sara.judd@lge-ku.com

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

CERTIFICATE OF COMPLIANCE

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's February 26, 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 February 26, 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 on a portable electronic storage medium 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*