

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

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF</b>	)	
<b>KENTUCKY UTILITIES COMPANY FOR AN</b>	)	
<b>ADJUSTMENT OF ITS ELECTRIC RATES, A</b>	)	<b>CASE NO. 2020-00349</b>
<b>CERTIFICATE OF PUBLIC CONVENIENCE</b>	)	
<b>AND NECESSITY TO DEPLOY ADVANCED</b>	)	
<b>METERING INFRASTRUCTURE,</b>	)	
<b>APPROVAL OF CERTAIN REGULATORY</b>	)	
<b>AND ACCOUNTING TREATMENTS, AND</b>	)	
<b>ESTABLISHMENT OF A ONE-YEAR</b>	)	
<b>SURCREDIT</b>	)	

**In the Matter of:**

<b>ELECTRONIC APPLICATION OF</b>	)	
<b>LOUISVILLE GAS AND ELECTRIC</b>	)	
<b>COMPANY FOR AN ADJUSTMENT OF ITS</b>	)	<b>CASE NO. 2020-00350</b>
<b>ELECTRIC AND GAS RATES, A</b>	)	
<b>CERTIFICATE OF PUBLIC CONVENIENCE</b>	)	
<b>AND NECESSITY TO DEPLOY ADVANCED</b>	)	
<b>METERING INFRASTRUCTURE,</b>	)	
<b>APPROVAL OF CERTAIN REGULATORY</b>	)	
<b>AND ACCOUNTING TREATMENTS, AND</b>	)	
<b>ESTABLISHMENT OF A ONE-YEAR</b>	)	
<b>SURCREDIT</b>	)	

**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 to grant confidential protection for certain modeling inputs and outputs they are required to submit in response to ordering paragraphs 9 and 10 of the Commission’s September 24, 2021 Orders in these proceedings. (The

totality of the filing the Companies are making in response to those ordering paragraphs is the “Modeling Transparency Filing.”) The portions of the Modeling Transparency Filing for which the Companies request confidential treatment, namely the entirety of Attachments B-E to the document titled, “2020 Rate Case Response to September 24, 2021 Ordering Paragraphs 9 & 10,” are confidential because they contain information regarding projected fuel costs and other power production costs, as well as information in reports received from third parties regarding long-term marketplace projections. (Collectively, Attachments B-E are the “Confidential 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.

The Confidential Information contains information regarding power production costs that the Companies wish to protect from public disclosure—including projected costs of fuel and production costs—was developed internally by 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. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in negotiating fuel contracts in the future, and could also be disadvantaged in the wholesale energy market because fuel costs are important components of energy pricing. All such commercial harms would ultimately harm LG&E’s and KU’s customers, who would have

to pay higher rates if the disclosed information resulted in higher fuel prices or adversely affected the Companies' off-system energy sales.

2. In addition, the Confidential Information contains electricity price forecasts based on forecasts developed by a third-party consultant, namely S&P Global Platts. As a player in a competitive market, S&P Global Platts does not want confidential technical information or projections it has made to be publicly disclosed or to be used against it in future negotiations with other customers or by its competitors. If this proprietary information is disclosed, S&P Global Platts and other third-party suppliers of the same kinds of information and analyses may be less willing to supply reports to the Companies in the future. Diminishing the Companies' ability to receive this information would harm both the Companies and their customers. This information should therefore be afforded confidential protection to protect the Companies and their customers.

3. With the exception of the information from S&P Global Platts, the information for which the Companies are seeking confidential treatment is not known outside of LG&E and KU, 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. As discussed above, the S&P Global Platts information is available only to those who purchase such information, and publicly disclosing the report would do commercial harm to S&P Global Platts and likely the Companies, whose ability to purchase such information in the future could be compromised.

4. The Commission has consistently given confidential treatment to similar information in these proceedings,<sup>1</sup> as well as in previous cases (e.g., the Companies' IRP cases).<sup>2</sup>

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<sup>1</sup> See, e.g., Case Nos. 2020-00349 and 2020-00350, Order (PSC Ky. Dec. 7, 2021) (granting confidential protection for fuel prices and variable O&M data).

5. The Companies do not object to limited disclosure of the confidential information described herein, pursuant to an acceptable protective agreement, to intervenors with legitimate interests in reviewing the same for the purpose of participating in this case.

6. 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.<sup>3</sup>

7. Because the Companies are seeking confidential protection for the entirety of the Confidential Information, and in compliance with 807 KAR 5:001, Sections 8(3) and 13(2)(a)(3)b) and (e), as well as the Commission's Order March 24, 2020 Order in Case No. 2020-00085, the Companies will upload the Confidential Information to an encrypted file-share site for the Commission's retrieval. Access to the encrypted file-share site will be provided to intervenors pursuant to a confidentiality agreement.

8. 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.

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<sup>2</sup> *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2018-00348, Order (Ky. PSC Nov. 16, 2018). See also *2014 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2014-00131, Joint Petition of Louisville Gas and Electric Company and Kentucky Utilities Company for Confidential Protection (Ky. PSC April 21, 2014) (requesting confidential protection for similar information; petition not ruled upon); the Commission's letter to the Companies dated October 10, 2011, concerning the Companies' 2011 IRP case (Case No. 2011-00140); the Commission's letter to the Companies dated May 1, 2008, concerning the Companies' 2008 IRP case (Case No. 2008-00148); the Commission's letter to the Companies dated April 28, 2005, concerning the Companies' 2005 IRP case (Case No. 2005-00162); the Commission's letter to the Companies dated October 24, 2002, concerning the Companies' 2002 IRP case (Case No. 2002-00367); and the Commission's letter to the Companies dated March 6, 2000, concerning the Companies' 1999 IRP case (Case No. 99-430).

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

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

Dated: December 22, 2021

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on December 22, 2021; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

A handwritten signature in blue ink, appearing to read "A. B. Smith", is written above a horizontal line.

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