

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 CERTIFICATES OF)	
PUBLIC CONVENIENCE AND NECESSITY)	CASE NO. 2022-00402
AND SITE COMPATIBILITY)	
CERTIFICATES AND APPROVAL OF A)	
DEMAND SIDE MANAGEMENT PLAN)	

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 “Companies”) petition the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001 Section 13 to grant confidential protection for certain commercially sensitive the solar power purchase agreements (“PPAs”) the Companies are providing into the record of the case herewith. In support of this Joint Petition, the Companies state as follows:

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

1. The Kentucky Open Records Act exempts from disclosure certain records which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.¹ Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The Companies are providing copies of five fully executed solar PPAs for four total solar projects (one project involves two PPAs, one for each of the Companies). The

¹ KRS 61.878(1)(c)(1).

highlighted portions of the PPAs state the agreed upon rates that the Companies will pay for solar energy, liquidated damages terms, financial security requirements, and availability guarantee terms that are commercially sensitive and should be afforded confidential protection. Publicly disclosing such terms would likely to reduce the willingness of the PPA counterparties 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, all to the detriment of the Companies customers. Furthermore, public disclosure would provide insight into the Companies' evaluation of bids for such contracts to the detriment of the Companies and their ratepayers. In sum, the public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. Thus, KU and LG&E request confidential protection for the highlighted commercially sensitive terms of the five solar PPAs.

Confidential Information Subject to this Petition

3. The information for which the Companies are seeking confidential treatment is not known outside of LG&E and KU, their consultants with a need to know the information, and the Companies' counsel, and the counterparty to each PPA. 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. Also, it is generally recognized as confidential and proprietary information in the energy industry. The counterparty to each PPA considers the information to be confidential and proprietary, the disclosure of which would be harmful to their business interests.

4. The Commission has given confidential treatment to similar information in previous cases.² The Companies acknowledge that the Commission has previously denied confidentiality for PPA pricing.³ But the Companies respectfully ask the Commission to reconsider that position here, noting that the price differences in the PPAs at issue here demonstrate keeping such information confidential can affect pricing and terms.

5. 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.

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.⁴

7. The Companies are filing with the Commission one electronic copy that identifies with redactions the information for which confidential protection is sought. In accordance with the Commission's March 24, 2020 and July 22, 2021 Orders in Case No. 2020-00085, the Companies will upload the unredacted copy noting the confidential information with highlighting to its encrypted file-share site for the Commission's retrieval. Access to the encrypted file-share site has been provided to intervenors upon request pursuant to a confidentiality agreement.

² See, e.g., *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) (granting confidential protection to information that would disadvantage the Companies in negotiating power contracts).

³ See, e.g., *Electronic Application of Big Rivers Electric Corporation for Approval of Solar Power Contracts*, Case No. 2020-00183, Order at 2-3 (Ky. PSC Mar. 25, 2021); *Electronic Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Approval of a Solar Power Contract and Two Renewable Power Agreements to Satisfy Customer Requests for a Renewable Energy Source Under Green Tariff Option #3*, Case No. 2020-00016, Order at 2-3 (Ky. PSC May 8, 2020).

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

8. For all requests for confidential protection, the Companies request that confidential protection be granted for five years due to the sensitive nature of the information at issue.

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: March 1, 2023

Respectfully submitted,



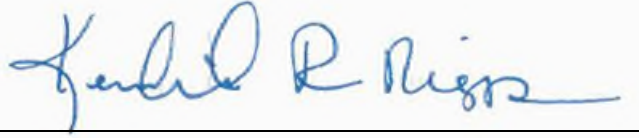
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CERTIFICATE OF SERVICE

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 March 1, 2023, 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, reading "Gerald R. Niess", is positioned above a horizontal line. The signature is written in a cursive style.

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