

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

**In the Matter of:**

<b>ELECTRONIC JOINT APPLICATION OF</b>	)	
<b>KENTUCKY UTILITIES COMPANY AND</b>	)	
<b>LOUISVILLE GAS AND ELECTRIC</b>	)	
<b>COMPANY FOR CERTIFICATES OF</b>	)	
<b>PUBLIC CONVENIENCE AND NECESSITY</b>	)	<b>CASE NO. 2022-00402</b>
<b>AND SITE COMPATIBILITY</b>	)	
<b>CERTIFICATES AND APPROVAL OF A</b>	)	
<b>DEMAND SIDE MANAGEMENT PLAN</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 “Companies”) petition the Public Service Commission of Kentucky (“Commission”) pursuant to 807 KAR 5:001 Section 13 to grant confidential protection for certain information the Companies are providing in response to Commission Staff’s Second Request for Information (“PSC”) Item Nos. 21(a), 25, 42(a), 52(e), 75(a), and 81; Joint Intervenors’ Supplemental Data Requests (“JI”) Item Nos. 60(a), 60(c), 63, and 66; Kentucky Coal Association’s Supplemental Request for Information (“KCA”) Item Nos. 4, 10(a), 10(b), and 19; and Sierra Club’s Supplemental Requests for Information (“SC”) Item No. 26(b). 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.<sup>1</sup> Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. In response to PSC 2-42(a), the Companies are providing the status of OVEC's compliance with certain environmental rules, which includes the estimated costs to comply with those rules. The estimated costs are confidential. Disclosing this information could adversely affect OVEC's ability to obtain the most reasonable prices for such goods and services in the competitive marketplace, as well as disclose OVEC's underlying cost structures, which could impair its ability to compete effectively in the wholesale energy marketplace. All of these competitive harms could adversely affect the Companies' customers because the Companies are contractually obligated to purchase certain amounts of energy from OVEC. The Companies therefore request with this petition that the Commission protect from public disclosure the highlighted portions of the attachment provided in response to PSC 2-42(a).

3. In response to PSC 2-52(e), the Companies are providing an itemized breakdown of the total expected capital costs for an SCR on Mill Creek Unit 2 and Ghent Unit 2. Similarly, in response to PSC 2-75(a), the Companies are providing attachments containing detailed, itemized breakdown of costs of the Mill Creek and Brown combined cycle bids. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in negotiating contracts for construction of the SCRs and natural gas combined cycle units. Furthermore, public disclosure would provide insight into the Companies' evaluation of bids to the detriment of the Companies and their ratepayers. The public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. All such commercial harms would

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<sup>1</sup> KRS 61.878(1)(c)(1).

ultimately harm LG&E's and KU's customers, who would have to pay higher costs if the disclosed information resulted in higher contract prices.

4. The Companies' responses to PSC 2-21(a), PSC 2-81, JI 2-60(a), JI 2-60(c), KCA 2-4, KCA 2-10(a), KCA 2-10(b), and SC 2-26(b) contain projections of what the Companies expect to pay for fuel. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in negotiating contracts to buy or sell these commodities in the future. The Companies 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.

5. The Companies are providing copies of the Owners Engineer contracts for the NGCC, Mercer Solar, and Brown Battery projects in response to KCA 2-19. The pricing terms in these contracts are confidential. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in negotiating future contracts. The public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. All such commercial harms would ultimately harm LG&E's and KU's customers, who would have to pay higher costs if the disclosed information resulted in higher contract prices.

6. The Companies are providing preliminary pricing data and terms from potential gas suppliers in response to JI 2-66. Confidential protection of this data is necessary because disclosure would disrupt the competitive bid process. Public disclosure would place the Companies at a considerable disadvantage when negotiating future contracts and could disadvantage them in the wholesale energy market. Furthermore, public disclosure would provide insight into the Companies' evaluation of bids to the detriment of the Companies and their

ratepayers. The public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent.

7. In response to PSC 2-25, the Companies are providing the names of the vendors they have met with to discuss DSM/EE software functionality. Confidential protection of the names of these vendors is necessary because the RFP process is ongoing. If vendors are aware of the identity of other vendors with whom the Companies have already communicated, vendors may be less likely to submit bids or less likely to submit favorable bids. Confidential protection of this data is necessary because disclosure would disrupt the competitive bid process. The public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent.

8. In addition to containing fuel forecast information, the Companies are providing in response to PSC 2-81, JI 2-60(a), and JI 2-60(c) information that is confidential because it contains RFP response data, detailed information about solar PPA proposals the Companies received, and proprietary information and projections obtained from third parties. Confidential protection of the RFP responses and PPA proposals is necessary because disclosure would disrupt the competitive bid process. Public disclosure would place the Companies at a considerable disadvantage when negotiating future contracts and could disadvantage them in the wholesale energy market. Furthermore, public disclosure would provide insight into the Companies' evaluation of bids to the detriment of the Companies and their ratepayers. Additionally, as players in competitive markets, third parties do 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, these parties 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. The public disclosure of the confidential information in PSC 2-81, JI 2-60(a), and JI 2-60(c) would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent.

**Confidential Information Filed in IRP and Subject to Prior Petitions**

9. In response to JI 2-63, the Companies are providing all confidential workpapers filed and produced in the Companies' IRP, Case No. 2021-00393. The Companies requested confidential protection in Case No. 2021-00393 for customer-identifying information pursuant to KRS 61.878(1)(a), confidential or proprietary commercial information pursuant to KRS 61.878(1)(c)(1), and critical energy infrastructure information pursuant to KRS 61.878(1)(m). The Companies requested confidential protection in Petitions for Confidential Protection filed October 19, 2021, February 11, 2022, and March 25, 2022. These Petitions in Case No. 2021-00393 are pending. The Companies request confidential protection for the confidential information provided in response to JI 2-63 for the same reasons as identified in the Companies' Petitions for Confidential Protection filed in Case No. 2021-00393 on October 19, 2021, February 11, 2022, and March 25, 2022.

**Confidential Information Subject to this Petition**

10. 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, 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.

11. 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.

12. 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>2</sup>

13. Pursuant to 807 KAR 5:001, Section 13(2)(b), for all of Attachments 1 and 2 to PSC 2-52(e), Attachments 2, 3, and 4 to PSC 2-75(a), and JI 2-66, the Companies are providing written notification that the entire document is confidential. The Companies are also requesting confidential protection for the entirety of JI 2-63; the Companies previously filed public versions of certain confidential files in Case No. 2021-00393. For PSC 2-21(a), PSC 2-25, PSC 2-42(a), Attachment 1 to PSC 2-75(a), PSC 2-81, Attachment 2 to JI 2-60(a), JI 2-60(c), KCA 2-4, KCA 2-10(a), KCA 2-10(b), Attachments 1, 2, and 3 to KCA 2-19, and Attachment 1 to SC 2-26(b), which are not entirely confidential, the Companies are filing with the Commission one electronic copy that identifies with redactions the information for which confidential protection is sought. The Companies are also providing confidential versions of the responses to JI 2-70(b), JI 2-80(a), SC 2-27, and SC 2-28(b) because the questions contain confidential information that is subject to prior Petitions for Confidential Protection filed in this proceeding.

14. 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 copies noting the confidential information with highlighting to its encrypted file-share site for the Commission's retrieval.

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

Access to the encrypted file-share site will be provided to intervenors upon request pursuant to a confidentiality agreement.

15. 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: May 4, 2023

Respectfully submitted,



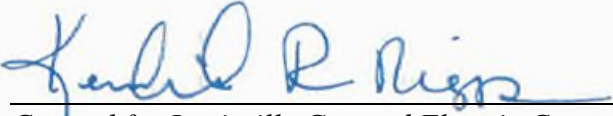
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**CERTIFICATE OF SERVICE**

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 May 4, 2023, and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



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