

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 information the Companies are providing in its supplemental response to Kentucky Coal Association’s Supplemental Request for Information (“KCA”) Item No. 51(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.¹ Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. In the supplemental response to KCA 2-51(b), the Companies are providing the Request for Proposals (“RFP”) issued to OEM bidders for construction of the proposed Natural

¹ KRS 61.878(1)(c)(1).

Gas Combined Cycle projects at the Mill Creek and Brown generating stations, including a specimen Engineering, Procurement and Construction (“EPC”) contract and supporting documents (collectively, the “Attachment to KCA 2-51(b)”). The Companies provided the Attachment to KCA 2-51(b) to bidders using a secured restricted access computer software which required the bidders to hold the information in confidence. The bidders further executed nondisclosure agreements which required the bidders to hold the information in confidence.

3. Disclosure of the Attachment to KCA 2-51(b) would place the bidders, and therefore the Companies and their customers, at a competitive disadvantage when negotiating with subcontractors for their bid. For example, the Attachment to KCA 2-51(b) contains a list of approved suppliers for specific components of the project. Public disclosure of this information may put the RFP bidders at a competitive disadvantage when negotiating with subcontractors for their bid if for example, the subcontractor knows which approved suppliers they are competing against or knows they are among a small group of approved suppliers. Disclosure of this information would, in turn, put the Companies at a commercial disadvantage when negotiating the contract with the winning bidder(s) and would ultimately harm the Companies’ customers through higher costs and potential delays in the RFP process.

4. Thus, KU and LG&E request confidential protection for the entirety of the Attachment to KCA 2-51(b) provided in the supplemental response to KCA 2-51(b).

Critical Energy Infrastructure Information (KRS 61.878(1)(m))

5. KRS 61.878(1)(m)(1) exempts from disclosure public records that have a reasonable likelihood of threatening public safety by exposing a vulnerability, such as infrastructure records that disclose the “location, configuration, or security of critical systems,” or “detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems.”

6. Certain information contained in the Attachment to KCA 2-51(b) includes detailed technical specifications and floorplans for the communications systems, security design, and control system hardware for the units subject to the RFP. This technical information constitutes Critical Energy Infrastructure Information (“CEII”). Public disclosure of this information could cause potential security concerns to the Companies’ generating stations and resources. The Commission has recently granted confidential protection to similar CEII.²

Confidential Information Subject to this Petition

7. The information for which the Companies are seeking confidential treatment is not known outside of LG&E and KU, their consultants and bidders 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.

8. 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.

9. 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.³

10. Pursuant to 807 KAR 5:001, Section 13(2)(b), for all of the Attachment to KCA 2-51(b), the Companies are providing written notification that the entire document is confidential. In accordance with the Commission’s March 24, 2020 and July 22, 2021 Orders in

² *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order Regarding Request for Confidential Treatment to AG’s Initial Request for Information (Ky. PSC Dec. 2, 2015).

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

Case No. 2020-00085, the Companies will upload the confidential Attachment to KCA 2-51(b) to its encrypted file-share site for the Commission's retrieval. Access to the encrypted file-share site will be provided to intervenors upon request pursuant to a confidentiality agreement.

11. Due to the inclusion of CEII in the Attachment to KCA 2-51(b), the Companies request that confidential protection be granted indefinitely.

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: June 29, 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 June 29, 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, appearing to read "Gerald R. Nicks", is written over a light gray rectangular background.

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