

**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 its response to Commission Staff’s Fifth Request for Information (“PSC”) Item Nos. 1(b), 2, and 9(a), and Fourth Data Request of Joint Intervenors (“JI”) Item Nos. 5, 7, 14, 17, and 27(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.

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

2. In response to PSC 5-1(b), 5-2, and 5-9(a), the Companies are providing confidential workpapers. The workpapers are confidential for three reasons. First, portions of the workpapers contain RFP response data and detailed information about solar PPA proposals the Companies received. Confidential protection of the RFP and solar PPA 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 Commission previously granted the Companies' request to protect similar information from public disclosure.<sup>2</sup>

3. Second, the workpapers contain proprietary information and projections obtained from third parties. As players in competitive markets, these third-party vendors do not want confidential technical information or projections they have made to be publicly disclosed or to be used against them in future negotiations with other customers or by their competitors. If the 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.

4. Third, the workpapers contain projections of what the Companies expect to pay and receive for commodities they buy and sell like fuel and coal combustion residuals. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in

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<sup>2</sup> *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 (Ky. PSC May 8, 2020).

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. Because the disclosure of the workpapers provided in response to PSC 5-1(b), 5-2, and 5-9(a) would cause precisely the type of competitive harm KRS 61.878(1)(c)(1) intends to prevent, the Companies request confidential protection for the entirety of the workpapers.

5. In response to JI 4-5, the Companies are providing a "printscreen" of the TVA generation outage portal, which includes all outages, derates, and planned outages for the LG&E and KU generating units. The data consists of the unit name, start and stop dates and times of the outage, a comment regarding the reason for the outage or derate, and the amount the unit is available to produce for derates. The disclosure of this information would unfairly advantage the Companies' competitors for wholesale power sales. The information would allow the Companies' competitors to know when generating plants will be down for maintenance and thus know a crucial input into the Companies' generating costs and need for power and energy during those periods. The commercial risk of the disclosure of this information is that potential suppliers will be able to manipulate the price of power bid to the Companies in order to maximize their revenues, thereby causing higher prices for the Companies' customers.

6. JI 4-14 requests the "most recent Handy-Whitman Index for public utility construction costs in the Companies' possession." The Companies purchased the Handy-Whitman Cost Index, which is subject to copyright. The Companies do not have authority to disclose the Handy-Whitman Cost Index publicly. To disclose the report publicly would violate the copyright

and possibly subject the Companies to an action for damages. Moreover, publicly disclosing such information would do immediate and costly harm to the vendor from whom the Companies purchased the information because the vendor derives revenues from developing and selling such reports to customers. Public disclosure of the Handy-Whitman Cost Index would render it commercially worthless. The Commission has previously granted confidential protection to Handy-Whitman Cost Index information.<sup>3</sup> Thus, the Companies seek confidential protection of this information.

7. JI 4-17 requests how the firm transportation costs provided in the Companies' response to KCA 1-51 were derived. In response, the Companies are providing a narrative of the firm transportation cost calculation, of which certain costs are confidential. If the Commission grants public access to this information, the Companies could be disadvantaged in negotiating contracts for firm gas transportation in the future. Such commercial harm would ultimately harm the Companies' customers, who would have to pay higher costs if the disclosed information resulted in higher contract prices. The Companies similarly requested confidential protection for its firm gas transportation estimates provided in response to KCA 1-51.<sup>4</sup>

8. In response to JI 4-27(b), the Companies are providing questions submitted by RFP bidders. The file includes RFP response data and detailed information about the RFP proposals the Companies received. 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. Furthermore, public disclosure

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<sup>3</sup> *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00371, Order (Ky. PSC (granting January 25, 2017 Petition for Confidential Protection requesting protection for AG Item 315).

<sup>4</sup> Case No. 2022-00402, Petition for Confidential Protection (Ky. PSC filed Mar. 10, 2023).

would provide insight into the Companies' evaluation of bids to the detriment of the Companies and their ratepayers.

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

9. 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."

10. The attachment provided in response to JI 4-5 is also confidential as it contains critical energy infrastructure information. The disclosure of the start and stop dates and times of the outage at the Companies' generating units could be used to compromise the Companies' facilities or service. Because the response to JI 4-5 contains Critical Energy Infrastructure Information that would threaten public safety if disclosed, the attachment provided in response to JI 4-5 should be protected from public disclosure in its entirety.

11. In response to JI 4-7, the Companies are providing the Independent Transmission Operator's Assessment of 2022 LG&E and KU Transmission Expansion Plan. This document contains infrastructure records that could expose a vulnerability through the disclosure of the location, configuration, or security of public utility critical systems. If such information is made available in the public record, individuals seeking to induce public harm will have critical information concerning the present vulnerabilities of the Companies' transmission system. Knowledge of such vulnerabilities may allow a person to cause public harm through the disruption of the electric transmission system.

### **Confidential Information Subject to this Petition**

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

13. 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.

14. 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>5</sup>

15. Pursuant to 807 KAR 5:001, Section 13(2)(b), for all of the attachments to PSC 5-1(b), PSC 5-2, PSC 5-9(a), JI 4-5, JI 4-7, JI 4-14, and JI 4-27(b), the Companies are providing written notification that the entire document is confidential. For JI 4-17, which is 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. In accordance with the Commission's March 24, 2020 and July 22, 2021 Orders in Case No. 2020-00085, the Companies will upload the entirely confidential files and unredacted copy of JI 4-17 noting the confidential information with highlighting 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.

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<sup>5</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

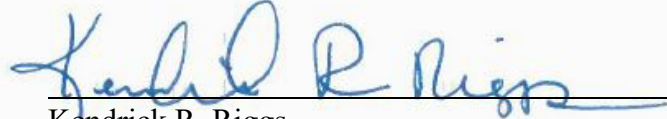
16. Due to the serious security concerns related to the disclosure of Critical Energy Infrastructure Information at issue in JI 4-5 and JI 4-7, the Companies request that the attachments provided in response to JI 4-5 and JI 4-7 remain confidential indefinitely.

17. For all other 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: July 7, 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 July 7, 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*