

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) CASE NO. 2023-00122
FOR APPROVAL OF SEVEN FOSSIL FUEL-)
FIRED GENERATING UNIT RETIREMENTS)

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 Exhibit SB4-2 of the Direct Testimony of Stuart A. Wilson. 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. Exhibit SB4-2 contains Mr. Wilson’s workpapers including PROSYM, SERVM, and financial model files. The workpapers contain RFP response data. Confidential protection of the RFP responses 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,

¹ KRS 61.878(1)(c)(1).

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. Thus, KU and LG&E request confidential protection for the entirety of Exhibit SB4-2. The Companies previously requested the Commission to afford this kind of information confidential protection in Case No. 2020-00016.² The Commission granted the Companies' request to protect this information from public disclosure.³

3. Exhibit SB4-2 also contains 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.

4. Finally, Exhibit SB4-2 includes unit maintenance schedules, the disclosure of which would unfairly advantage the Companies' competitors for wholesale power sales. This 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

² *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, Petition for Confidential Protection (Ky. PSC Jan. 23, 2020).

³ Case No. 2020-00016, Order (Ky. PSC May 8, 2020).

Companies in order to maximize their revenues, thereby causing higher prices for the Companies' customers and giving a commercial advantage to LG&E's and KU's competitors.

Confidential Information Subject to this Petition

5. 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.

6. 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.

7. 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

8. Pursuant to 807 KAR 5:001, Section 13(2)(b), the Companies are providing written notification that the confidential zip file for Exhibit SB4-2 contains hundreds of modeling files, the vast majority of which contain confidential information; taken as a whole and given the files' mutual relationship, the entire zip file should be considered confidential. It is difficult and impracticable to discern the entirety of the files that do not contain confidential information. Those files that are readily identifiable as lacking confidential information are contained in the public zip file for Exhibit SB4-2, which the Companies are filing publicly on the Commission's website.

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

9. In accordance with the Commission's March 24, 2020 and July 22, 2021 Orders in Case No. 2020-00085, the Companies will upload the confidential file 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.

10. 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 10, 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 10, 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. Riggs". The signature is written in a cursive style with a horizontal line at the end.

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