

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

**In the Matter of:**

|   |   |                   |
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| <b>ELECTRONIC APPLICATION OF KENTUCKY</b>   | ) |                   |
| <b>UTILITIES COMPANY AND LOUISVILLE GAS</b> | ) |                   |
| <b>AND ELECTRIC COMPANY FOR A SITE</b>      | ) | <b>CASE NO.</b>   |
| <b>COMPATIBILITY CERTIFICATE FOR THE</b>    | ) | <b>2023-00361</b> |
| <b>CONSTRUCTION OF A SOLAR FACILITY IN</b>  | ) |                   |
| <b>MERCER COUNTY, KENTUCKY</b>              | ) |                   |

**PETITION FOR CONFIDENTIAL PROTECTION**

Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively the “Companies”) jointly petition the Kentucky Public Service Commission (“Commission”) pursuant to Section 807 KAR 5:001, Section 13 and KRS 61.878(1) to grant confidential protection for certain information the Companies are providing in response to Commission Staff’s Second Request for Information, Item No. 14. In support of this 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 that 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 prompt such a result.

2. The Companies are providing copies of the leases or purchase agreements, including options, amendments, and deeds entered into in connection with the proposed solar facility in response to PSC 2-14. Attachment 1 to PSC 2-14, a Real Estate Purchase, Sale and Assignment Agreement entered into between KU and Mercer County Solar Project, LLC, is

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

confidential in part because it contains non-public pricing terms that would cause competitive harm to the Companies if publicly disclosed. The Companies routinely enter into lease or purchase agreements with landowners to acquire property rights for purposes of providing utility service to their customers. These agreements are the result of negotiations that require the Companies to expend substantial resources to reach a satisfactory conclusion that is in the best interest of their customers. If confidential pricing terms, such as the pricing terms in Attachment 1 to PSC 2-14 for which the Companies are seeking protection, become publicly available, then the Companies would be disadvantaged in their negotiating position with future landowners when entering similar agreements concerning the lease or purchase of real property.

3. In addition, the third parties that the Companies contract with, including the third party involved in the agreement provided as Attachment 1 to PSC 2-14, often require that sensitive business terms remain confidential, and that the Companies exert reasonable efforts to prevent the public disclosure of any such confidential information. If the Companies are required to publicly disclose the sensitive pricing terms for which they seek protection despite such reasonable efforts, then future contracting parties may be less willing to enter into agreements with the Companies. 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 or fewer contracting opportunities for the Companies in the future.

4. The Commission has previously granted protection for similar confidential information.<sup>2</sup>

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<sup>2</sup> See *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-Fired Generating Unit Retirements*, Case No. 2022-00402, Order at 8 (Ky. PSC Aug. 31, 2023).

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

5. The information for which the Companies are seeking confidential treatment is not known outside of the third parties privy to the agreement which the Companies are seeking protection, 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. At this time, there are no intervenors to this proceeding.

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.<sup>3</sup>

8. With regard to Attachment 1 to PSC 2-14, 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.

9. In accordance with the Commission's March 24, 2020 and July 22, 2021 Orders in Case No. 2020-00085, the Companies will transmit the confidential version of the Attachment 1 to PSC 2-14, noting the confidential information with highlighting, to the Commission's Executive Director via electronic mail for the Commission's retrieval.

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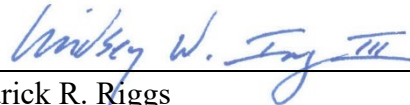
<sup>3</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

10. The Companies request that confidential protection be granted for a period of five years due to the sensitive nature of the information at issue in the Attachment 1 to PSC 2-14.

**WHEREFORE,** Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission issue an order granting protection from public disclosure for the confidential information specifically described in this petition.

Dated: May 10, 2024

Respectfully submitted,



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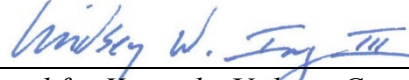
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**CERTIFICATE OF COMPLIANCE**

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, 2024; 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 Kentucky Utilities Company and  
Louisville Gas and Electric Company*