

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

**In the Matter of:**

**ELECTRONIC TARIFF FILINGS OF )**  
**LOUISVILLE GAS AND ELECTRIC COMPANY )**  
**AND KENTUCKY UTILITIES COMPANY TO )**  
**REVISE PURCHASE RATES FOR SMALL ) CASE NO. 2023-00404**  
**CAPACITY AND LARGE CAPACITY )**  
**COGENERATION AND POWER PRODUCTION )**  
**QUALIFYING FACILITIES AND NET )**  
**METERING SERVICE-2 CREDIT RATES )**

**LOUISVILLE GAS AND ELECTRIC COMPANY**  
**AND KENTUCKY UTILITIES COMPANY’S**  
**REPLY OBJECTING TO JOINT INTERVENORS’ RESPONSE TO**  
**JOINT PETITION FOR CONFIDENTIAL PROTECTION**

On February 29, 2024, the Joint Intervenors filed a Response to the Joint Petition for Confidential Protection filed on February 22, 2024 by Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively “Companies”).<sup>1</sup> The Companies object to the response of the Joint Intervenors and state the following for their reply:

First and foremost, the Joint Intervenors would in no way be prejudiced by treating the affected information confidentially. They have entered into a confidentiality agreement with the Companies and have full access to and use of the confidential information at issue for the purposes and duration of this proceeding. Thus, they will suffer no harm in this proceeding if the Commission grants the Companies’ requested relief; indeed, no party will suffer harm because all of the intervenors have entered into confidentiality agreements with the Companies, and the Commission and its Staff have unfettered access to the confidential information at issue.

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<sup>1</sup> The Joint Intervenors are Kentucky Solar Energy Society and Mountain Association.

Second, one of the Joint Intervenors is the Kentucky Solar Energy Society, whose website lists among its “Sustaining Partner Members” and “Supporting Partner Members” several entities that appear to be solar installers and others in the solar business.<sup>2</sup> The Commission should consider whether it is in customers’ best interest to require the disclosure of sensitive commercial information provided to a utility by one set of solar companies at the request of those companies’ potential competitors.

Third, the Joint Intervenors’ Response asks the Commission to deny the Companies’ Joint Petition for Confidential Protection without offering any new substantive grounds to support their position; rather, the Intervenors simply restate prior arguments made by the Companies and by the Commission. Importantly, those arguments are currently before the Franklin Circuit Court on appeal.<sup>3</sup>

The Companies’ position is clear and cogent: solar purchase power agreement pricing terms and other commercially sensitive contract terms should remain free from public disclosure under KRS 61.878(1)(c)(1) because requiring such disclosure might harm customers by causing some potential bidders not to offer their lowest and best pricing and terms, and it could cause others not to bid at all to avoid public disclosure of their sensitive commercial information. Moreover, requiring such disclosure would give an unfair commercial advantage to competitors of the solar entities entrusting their confidential information to the Companies. (As noted above, such competitors might include members of one of the Joint Intervenors.) Thus, in seeking confidential protection, the Companies simply aim to avert commercial harm to their customers and the third

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<sup>2</sup> See <https://www.kyses.org/page-1658442> (accessed Mar. 3, 2024, and archived at <https://web.archive.org/web/20240303183329/https://www.kyses.org/page-1658442>).

<sup>3</sup> See *Kentucky Utilities Company et al. v. Public Service Commission et al.*, No. 23-CI-01010 (Franklin Cir. Ct.); *Kentucky Utilities Company et al. v. Public Service Commission et al.*, No. 23-CI-01148 (Franklin Cir. Ct.) (cases consolidated by agreed order on Jan. 26, 2024).

parties with whom the Companies enter contractual agreements by preventing sensitive information from entering the public record for competitors to see. When the Kentucky Legislature enacted KRS 61.878(1)(c)(1), it created an express legal avenue to accomplish this goal of preventing commercial harm. The Companies request that the Commission recognize the unique nature of solar development, the plausible competitive harms that will result from public disclosure, and the protection expressly afforded by KRS 61.878(1)(c)(1).

**WHEREFORE**, Louisville Gas and Electric Company and Kentucky Utilities Company respectfully request that the Commission issue an order granting the relief requested in their Joint Petition for Confidential Protection.

Dated: March 5, 2024

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 March 5, 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 Louisville Gas and Electric Company  
and Kentucky Utilities Company*