

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)**

**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 Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1) to grant confidential protection to certain information the Companies are providing in the Rebuttal Testimony of Stuart A. Wilson and in Rebuttal Exhibit SAW-1 to the Rebuttal Testimony of Stuart A. Wilson. 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.¹ Public disclosure of the information identified herein would prompt such a result.

¹ KRS 61.878(1)(c)(1).

2. A portion of the Rebuttal Testimony of Stuart A. Wilson contains confidential projections of the leveled cost of energy for the Companies' planned Mercer County and Marion County Solar Facilities. Negotiation for the engineering, procurement, and construction ("EPC") contracts for both of those facilities are ongoing, and the final terms of the EPC contracts will directly affect the cost of those facilities to the Companies and their customers. Disclosing the Companies' projections of the facilities' leveled cost of energy, as well as the underlying cost assumptions contained in Rebuttal Exhibit SAW-1, could result in not obtaining the most favorable EPC pricing if potential vendors determine that the Companies' projected costs are higher than what the vendors would otherwise offer. Such premature public disclosure of the leveled cost of energy data and underlying assumptions could also result in competitive harm to the Companies in future bidding and negotiations for other similar contracts and possible future solar power purchase agreements, resulting in higher costs to the Companies and their customers.

3. As noted above, Rebuttal Exhibit SAW-1 provides the underlying data used to compute the leveled cost of energy for the Companies' planned Mercer County and Marion County Solar Facilities in an Excel spreadsheet. This spreadsheet contains embedded confidential information which cannot be redacted without breaking formulas and rendering the spreadsheet unusable. Therefore, the Companies request confidential protection for the entire Rebuttal Exhibit SAW-1 for the same reasons as stated above, i.e., to protect the competitive bidding process and to prevent harming the Companies by creating an opportunity for EPC vendors to artificially inflate or adjust pricing terms both for these facilities and possible future facilities, as well as possible future solar power purchase agreements.

4. The Commission has previously recognized the need for confidential treatment of sensitive levelized cost of energy data to prevent commercial harms.²

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.³

8. Pursuant to 807 KAR 5:001 § 13(2)(b), the Companies are providing written notification that the Rebuttal Exhibit SAW-1 is confidential in its entirety.

9. With regard to the Rebuttal Testimony of Stuart A. Wilson, 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.

10. 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 version of the Rebuttal

² See *Electronic 2019 Integrated Resource Plan of East Kentucky Power Cooperative, Inc.*, Case No. 2019-00096, Order at 3 (Ky. PSC Apr. 1, 2020).

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

Testimony of Stuart A. Wilson, noting the confidential information with highlighting, and the confidential Rebuttal Exhibit SAW-1 to the Companies' 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. The Companies request that confidential protection be granted until the costs are proposed for recovery due to the sensitive nature of the information at issue in the Rebuttal Testimony of Stuart A. Wilson and in Rebuttal Exhibit SAW-1.

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: April 4, 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 April 4, 2024, and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



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