

**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 the items described herein, which the Companies are providing in response to Commission Staff’s (“PSC”) Third Request for Information, Item No. 5(b) (“PSC 3-5(b)"). 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.

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

2. In response to PSC 3-5(b), the Companies are supplying workpapers generated using proprietary software, PROSYM, that provide insight into the Companies' avoided energy cost analysis. These workpapers include several confidential items embedded within PROSYM data files, including fuel prices, coal combustion residual ("CCR") prices, and unit maintenance schedules.

3. The workpapers provided in response to PSC 3-5(b) contain projections of what the Companies expect to pay and receive for commodities they buy and sell like fuel and CCRs. If the Commission grants public access to this information, the Companies 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. Further, public disclosure of the Companies' forecasted fuel and CCR pricing information would provide a commercial advantage to the Companies' retail and wholesale customers when negotiating power requirement contracts. All such commercial harms would ultimately harm the Companies' 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. The Commission has historically recognized the need for confidential treatment of fuel cost projections,<sup>2</sup> as well as CCR prices.<sup>3</sup> The Commission has also recognized the sensitive nature of this information when utilized as data inputs for propriety modeling software,<sup>4</sup> such as PROSYM.

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<sup>2</sup> See, e.g., *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates, A Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit*, Case No. 2020-00349, Order at 3 (Ky. PSC Dec. 6, 2022); *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2018-00348, Order at 3 (Ky. PSC Nov. 16, 2018).

<sup>3</sup> See *Electronic Application of Kentucky Utilities Company for a Certificate of Public Convenience and Necessity and Approval of Amendment to Its 2016 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2017-00483, Order at 1-2 (Ky. PSC Apr. 30, 2018).

<sup>4</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

4. The workpapers provided in response to PSC 3-5(b) also include embedded information on 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 Companies to maximize their revenues, thereby causing higher prices for the Companies' customers and giving a commercial advantage to the Companies' competitors. The Commission has historically recognized the need for confidential treatment of unit maintenance schedules.<sup>5</sup>

#### **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.

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8 (Ky. PSC Aug. 31, 2023) (granting confidential protection to entirety of a file containing fuel price data "because the file was generated using proprietary [SERVM] software").

<sup>5</sup> See, e.g., *Electronic Review of the Adequacy of Kentucky's Generation Capacity and Transmission System*, Administrative Case No. 387, Order at 2 (June 20, 2023); *An Electronic Examination of the Application of the Fuel Adjustment Clause of Big Rivers Electric Corporation from May 1, 2021 through October 31, 2021*, Case No. 2022-00041, Order at 2-3 (Ky. PSC Jan. 10, 2023).

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>6</sup>

8. Pursuant to 807 KAR 5:001 § 13(2)(b), the Companies are providing written notification that the attachment to PSC 3-5(b) is confidential in its entirety.

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 attachment to PSC 3-5(b) 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.

10. The Companies request that confidential protection be granted for five years due to the sensitive nature of the information at issue in the attachment to PSC 3-5(b).

**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.

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<sup>6</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

Dated: March 22, 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 22, 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*