

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF)
LOUISVILLE GAS AND ELECTRIC)
COMPANY AND KENTUCKY UTILITIES) **CASE NO. 2023-00422**
COMPANY SERVICE RELATED TO)
WINTER STORM ELLIOTT)

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 to grant confidential protection for certain information the Companies are providing in its responses to Commission Staff’s First Requests for Information (“PSC”) Item Nos. 3, 14, 19(b), 26(d), 43, 52(c), and 82; Joint Intervenors’ Initial Data Requests (“JI”) Item No. 2(d); and Sierra Club’s Initial Requests for Information (“SC”) Item No. 37. 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.

¹ KRS 61.878(1)(c)(1).

2. Responses to the following data requests include commercially sensitive information that should be afforded confidential protection: PSC 1-3, PSC 1-19(b), and PSC 1-26(d).

3. A portion of the narrative response to PSC 1-3 includes information that was obtained from third parties regarding the third parties' weather forecasting methodologies. This information is proprietary to the third parties and should not be placed into the public record, because public disclosure would allow commercial competitors unfair access to information that the third parties expended valuable resources to develop or purchase.

4. In response to PSC 1-19(b), the Companies are providing Attachment 1, a presentation obtained confidentially from third party Texas Gas Transmission, LLC ("TGT"). This presentation, prepared by TGT, provides insight into TGT's ongoing capital projects and assessment of strategies and methodologies aimed at improving business operations. The information is proprietary to TGT and should not be placed into the public record.

5. The Commission has historically recognized the need for confidential treatment of proprietary third-party information.²

6. The Companies' response to PSC 1-26(d) includes an attachment containing confidential bid pricing terms related to capital project costs. This information was obtained from various equipment vendors, pipe and material manufacturers, and suppliers. Public disclosure of these pricing terms would disrupt the competitive bid process. Disclosure could cause commercial harm to the Companies' relationship with current and future prospective bidders, because bidders may be less willing to negotiate with the Companies if bid details are publicly disclosed, or bidders may use the disclosure to manipulate bid prices at higher levels.

² See, e.g., *Electronic 2019 Integrated Resource Plan of East Kentucky Power Cooperative, Inc.*, Case No. 2019-00096, Order at 4 (Ky. PSC Apr. 1, 2020); *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2018-00348, Order at 1-3 (Ky. PSC Nov. 16, 2018).

The Commission has previously granted confidential treatment to capital project costs³ and bidding information.⁴

Critical Energy Infrastructure Information (KRS 61.878(1)(m)(1))

7. KRS 61.878(1)(m)(1) exempts from disclosure public records that have a reasonable likelihood of threatening public safety by exposing a vulnerability, such as infrastructure records that disclose the “location, configuration, or security of critical systems,” or “detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems.”

8. The following responses contain highly confidential critical energy infrastructure information (“CEII”): PSC 1-14, PSC 1-26(d), PSC 1-43, PSC 1-52(c), PSC 1-82, JI 1-2(d), and SC 1-37.

9. Attachments 1 through 3 provided in response to PSC 1-14 contain transmission substation inspection data and transmission line structure inspection data. This inspection data is CEII and should be treated confidentially. Disclosure could expose vulnerabilities in the transmission system.

10. Portions of the attachment to PSC 1-26(d) are confidential because they contain CEII. On pages 34 and 35 of the attachment to PSC 1-26(d), the Companies are providing overhead views of the compression equipment at Mill Creek Generating Station. If the location of this compression equipment is available in the public record, knowledge of the location may allow a person to cause public harm.

³ *Electronic Application of Duke Energy Kentucky, Inc. for (1) An Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and (4) All Other Required Approvals and Relief*, Case No. 2022-00372, Order at 9 (Ky. PSC Oct. 30, 2023); *Application of Big Rivers Electric Corporation for Termination of Contracts and a Declaratory Order and for Authority to Establish a Regulatory Asset*, Case No. 2018-00146, Order at 1-3 (Ky. PSC Sept. 17, 2019).

⁴ *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, Order (Ky. PSC May 8, 2020).

11. In response to PSC 1-43, the Companies are providing Attachments 2 and 3 that identify by circuit number the customers impacted by load shedding. Similarly, in response to PSC 1-82, the Companies are providing an attachment that identifies by circuit number the transformers that were replaced during Winter Storm Elliott along with the amount of time to restore each transformer. The disclosure of this information could be used along with publicly available circuit location data to determine circuits to disrupt that would have the greatest impact on the Companies' operations and customers. For that reason, the noted attachments to PSC 1-43 and PSC 1-82 contain CEII, the disclosure of which could allow a person to cause public harm.

12. Attachments 1 and 2 provided in response to PSC 1-52(c) contain granular circuit location data. The attachments show the detailed locations of infrastructure on specific streets. The maps are CEII, the disclosure of which could pose a security concern.

13. In response to JI 1-2(d), the Companies are providing as an attachment a spreadsheet that contains the locations of the transmission tie lines between LG&E-KU's balancing authority and adjacent balancing authorities. This information is CEII, the disclosure of which would pose a security concern.

14. The attachments to the response to SC 1-37 contain the Companies' annual Transmission Expansion Plan reports. These reports contain CEII regarding the Companies' transmission infrastructure, namely detailed load information, capacity and timing information, economic dispatch information, model area dispatch information, and the results of stability and sensitivity analyses, among other CEII. This CEII is inextricably intertwined throughout the document and cannot be redacted within the time allowed for this response. Releasing a copy of these documents would thus pose a security concern.

15. The disclosure of these documents could expose a vulnerability through the disclosure of the configuration of public utility critical systems. If such information is made available in the public record, individuals seeking to induce public harm will have critical information concerning the present vulnerabilities of the Companies' systems. Knowledge of such vulnerabilities may allow a person to cause public harm through the disruption of the electric system. The Commission has historically recognized the need for confidential treatment of similar sensitive information.⁵

**Confidential Information Protected from Disclosure
by Federal or State Law (KRS 61.878(1)(k))**

16. The Kentucky Open Records Act protects “[a]ll public records or information the disclosure of which is prohibited by federal law or regulation or state law.”⁶ The disclosure of certain information the Companies produce would violate federal regulation and thus should be protected pursuant to KRS 61.878(1)(k).

17. The FERC Standards of Conduct for Transmission Providers, as stated in 18 CFR § 358, impose the “independent functioning rule,” which requires transmission function and marketing function employees to operate independently of each other and the “no-conduit rule,” which prohibits passing non-public transmission function information to marketing function employees.⁷

18. In addition to the reasons previously stated, the following responses or attachments contain non-public transmission function information that should be treated confidentially to ensure that they are not accessible to the Companies' marketing function employees: PSC 1-3 and JI 1-2(d). In preparing these responses and attachments, the Companies

⁵ See, e.g., *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); Case No. 2018-00348, Order at 2-3 (Ky. PSC Apr. 3, 2020).

⁶ KRS 61.878(1)(k).

⁷ 18 CFR § 358.2. See also FERC Docket No. RM07-1-000 (Oct. 16, 2008).

have ensured that the non-public transmission function information is not accessible to marketing function employees.

19. Because the Companies' responses to PSC 1-3 and JI 1-2(d) contain non-public transmission function information, the disclosure of which would violate 18 CFR § 358 because it would provide marketing function employees with access to the information, the Commission should grant confidential protection to this information.

20. The Commission has previously granted indefinite confidential protection to non-public transmission function information.⁸

Confidential Information Subject to this Petition

21. With the exception of third-party information provided to the Companies in confidence, 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.

22. The Commission has previously granted confidential protection for similar information.

23. 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.

⁸ See, e.g., *Electronic Joint Application of Louisville Gas and Electric Company, Meade County Rural Electric Cooperative Corporation, and Big Rivers Electric Corporation for (1) Approval of an Agreement Modifying an Existing Territorial Boundary Map and (2) Establishing Meade County Rural Electric Cooperative Corporation as the Retail Electric Supplier for Nucor Corporation's Proposed Steel Plate Mill in Buttermilk Falls Industrial Park in Meade County, Kentucky*, Case No. 2019-00370, Order at 3 (Ky. PSC Mar. 9, 2020); *Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates*, Case No. 2014-00372, Order at 1-2 (Ky. PSC June 15, 2015); Case No. 2014-00372, Order at 1-2 (Ky. PSC Sept. 27, 2016).

24. 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.⁹

25. Pursuant to 807 KAR 5:001, Section 13(2)(b), for Attachments 1 through 3 to PSC 1-14; Attachment 1 to PSC 1-19(b); Attachments 1 and 2 to PSC 1-52(c); the attachment to JI 1-2(d); and Attachments 1 through 10 to SC 1-37, the Companies are providing written notification that the entire documents are confidential.

26. For the responses to PSC 1-3, the attachment to PSC 1-26(d), Attachments 2 and 3 to PSC 1-43, and the attachment to PSC 1-82, which are 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. In accordance with the Commission's March 24, 2020 and July 22, 2021 Orders in Case No. 2020-00085, the Companies will upload the unredacted copies noting the confidential information with highlighting to its encrypted file-share site for the Commission's retrieval. Access to the encrypted file-share site will be provided to intervenors pursuant to a confidentiality agreement. The Companies will ensure that none of its marketing function employees have access to the encrypted file-share site.

27. Due to the serious security concerns related to the disclosure of CEII, the Companies request that the CEII provided in response to PSC 1-14, PSC 1-26(d), PSC 1-43, PSC 1-52(c), PSC 1-82, JI 1-2(d), and SC 1-37 remain confidential indefinitely. Due to the federal requirements prohibiting disclosure, the Companies request that the non-public transmission function information provided in response to PSC 1-3 and JI 1-2(d) remain confidential indefinitely or until the information becomes public. For all other requests for confidential

⁹ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

protection, 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: February 16, 2024

Respectfully submitted,



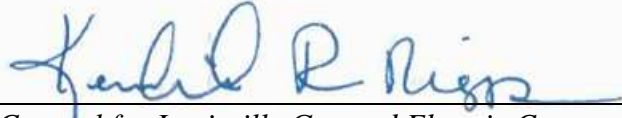
Kendrick R. Riggs
Stoll Keenon Ogden PLLC
400 West Market Street, Suite 2700
Louisville, Kentucky 40202
Telephone: (502) 333-6000
Fax: (502) 627-8722
kendrick.riggs@skofirm.com

Allyson K. Sturgeon
Vice President and Deputy General Counsel
Sara V. Judd
Senior Counsel
PPL Services Corporation
220 West Main Street
Louisville, Kentucky 40202
Telephone: (502) 627-2088
Fax: (502) 627-3367
ASturgeon@pplweb.com
SVJudd@pplweb.com

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

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 February 16, 2024, 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", is written over a horizontal line. The signature is cursive and includes a long horizontal stroke at the end.

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