

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC 2024 JOINT INTEGRATED)	
RESOURCE PLAN OF LOUISVILLE GAS)	
AND ELECTRIC COMPANY AND)	CASE NO. 2024-00326
KENTUCKY UTILITIES COMPANY)	

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, the “Companies”) petition the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878 to grant confidential protection for certain information the Companies are providing in its responses to Commission Staff’s First Request for Information (“PSC”), Item Nos. 6(b) and 27(b); Sierra Club’s Initial Requests for Information (“SC”) Item Nos. 9(b), 12(c)(i), and 21(a); Initial Data Requests of Joint Intervenors (“JI”) Item Nos. 5, 23, 35(d), 49(b), 62, 63, 64, and 66; the Attorney General’s Initial Data Requests (“AG”) Item No. 3; Kentucky Coal Association’s First Request for Information (“KCA”) Item No. 11; and the First Set of Data Requests of Kentucky Industrial Utility Customers, Inc. (“KIUC”) Item No. 6(b). In support of this Joint Petition, the Companies state as follows:

Confidential Commercial Information — KRS 61.878(1)(c)(1)

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure commercially sensitive information to the extent that open disclosure would give an unfair commercial advantage to competitors of the entity disclosing the information to the

Commission.¹ Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

Confidential Bid and Pricing Information

2. In response to PSC 1-6(b) and 1-27(b), the Companies are providing confidential workpapers related to resource assessment analyses generated using proprietary software, PROSYM and PLEXOS. The workpapers are confidential in part to the extent that the files are embedded with fuel prices, coal combustion residual (“CCR”) prices, and Request for Proposals (“RFP”) responses. The workpapers 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,² as well as CCR prices.³ The Commission has also recognized the sensitive nature of this information when utilized

¹ KRS 61.878(1)(c)(1).

² 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).

³ 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).

as data inputs for propriety modeling software,⁴ such as PROSYM and PLEXOS. In addition, the workpapers provided in response to PSC 1-6 and 1-27 contain confidential RFP response data. Confidential protection of the RFP data is necessary because disclosure would disrupt the competitive bid process. Public disclosure would place the Companies at a considerable disadvantage when negotiating future contracts and could disadvantage them in the wholesale energy market. Furthermore, public disclosure would provide insight into the Companies' evaluation of bids to the detriment of the Companies and their ratepayers. The Commission previously granted the Companies' request to protect this information from public disclosure.⁵

3. In response to AG 1-3, the Companies are providing an attachment containing estimated capital and operations and maintenance costs for the Recommended Resource Plan. These cost estimates are generally recognized as confidential and proprietary, and public disclosure would adversely impact the Companies' ability to obtain the most reasonable bids and prices for such costs in the competitive marketplace. The Commission has previously granted confidential protection for similar information.⁶

4. In response to SC 1-9(b), the Companies are providing Attachments 1, 2, and 3, which contain confidential vendor names and cost components that contributed to the Companies' capital cost estimates related to compliance with the Effluent Limit Guidelines ("ELG"). If vendor names and cost component pricing terms are disclosed, this will disadvantage the Companies in

⁴ 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) (granting confidential protection to entirety of a file containing fuel price data "because the file was generated using proprietary [SERVM] software").

⁵ *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).

⁶ See, e.g., *2014 Integrated Resource Plan of Big Rivers Electric Corporation*, Case No. 2014-00166, Order at 16 (Ky. PSC Aug. 26, 2014) ("[P]rojected capital costs and O&M costs are generally recognized as confidential or proprietary when submitted as part of an integrated resource plan.").

future negotiations and disrupt the competitive bid process because other vendors would become aware of how much the Companies expect to pay for certain components of the capital costs associated with ELG compliance. Public disclosure would also damage the Companies' relationship with these vendors, who provided cost component estimates to the Companies in confidence, thereby harming both the Companies and their customers. The Commission has previously granted confidential protection to similar information.⁷

5. In response to SC 1-21(a), the Companies are providing two confidential attachments, Attachments 1 and 2, that include fuel price forecasts and information relating to supply-side alternatives. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in negotiating fuel contracts in the future, and could also be disadvantaged in the wholesale energy market because fuel costs are important components of energy pricing. Moreover, public disclosure of information relating to supply-side alternatives would reveal the procedures followed and the factors and inputs considered by the Companies in evaluating the viability of possible generation projects. Public disclosure would give the Companies' contractors, vendors, and competitors access to the Companies' cost and operational parameters, and insight into the Companies' contracting practices. Public access to this information would impact the Companies' ability to negotiate with prospective contractors and vendors and could harm the Companies' competitive position in the wholesale power market. All such commercial harms would ultimately harm LG&E's and KU's customers, who would have to pay higher rates if the disclosed information resulted in higher fuel prices or adversely affected the

⁷ See, e.g., *Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00370, Order at 4 (Ky. PSC Apr. 17, 2019) (granting confidential protection to component pricing information).

Companies' generation asset procurement process or off-system energy sales. The Commission has previously granted confidential protection to similar information.⁸

6. In response to KCA 1-11, the Companies are providing estimated construction costs for certain capital projects. The cost estimate associated with the Marion County Solar project is confidential because the Companies are still in negotiations with FRON bn, LLC regarding the formation of an EPC agreement, and the RFPs for engineering, procurement, and construction of the solar facility have not yet been issued. Premature public disclosure of the project cost estimates would disrupt the competitive bid process because bidders would gain unfair commercial insight into the costs that the Companies expect to pay for the project. Disclosure could cause commercial harm to the Companies if bidders use the information to manipulate bid prices at higher levels, causing the Companies and their customers to incur heightened capital project costs. The Commission has previously granted confidential treatment to projected capital project costs.⁹

7. In response to KIUC 1-6(b), the Companies are providing an attachment that contains confidential bid components and CCR prices. Confidential protection of the bid components is necessary because disclosure would disrupt the competitive bid process. Public disclosure would place the Companies at a considerable disadvantage when negotiating future contracts and could disadvantage them in the wholesale energy market. Furthermore, public disclosure would provide insight into the Companies' evaluation of bids to the detriment of the

⁸ 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 3-4 (Ky. PSC Dec. 6, 2022); *Electronic 2021 Integrated Resource Plan of Duke Energy Kentucky, Inc.*, Case No. 2021-00245, Order at 7-8 (Ky. PSC June 13, 2023).

⁹ *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).

Companies and their ratepayers. The public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. In addition, if the Commission grants public access to CCR pricing 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. 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 Company's off-system energy sales. The Commission has historically recognized the need for confidential treatment of bid information and CCR prices.¹⁰

8. In response to JI 1-5, the Companies are providing responses to their RFPs for generation-related projects that could be pursued by the Companies from 2025 to 2027. Public disclosure would place the Companies at a considerable disadvantage when negotiating future contracts. Further, the release of this information to the public would impair the Companies' ability to obtain the most reasonable prices for generating capacity and storage in the competitive marketplace, which would be to the detriment of their customers. Furthermore, public disclosure would provide insight into the Companies' evaluation of bids to the detriment of the Companies

¹⁰ See *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) (concerning confidential protection for bid information); *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) (concerning confidential protection for CCR prices).

and their ratepayers. The Commission has previously granted confidential protection to similar information.¹¹

9. In response to JI 1-35(d), the Companies are providing forecasts of NOx allowance prices through 2050. These forecasted prices are proprietary information obtained from a third party, S&P Global. As a player in a competitive market, S&P Global does not want confidential projections it has made to be publicly disclosed or to be used against it in future negotiations with other customers or by its competitors. If this proprietary information is disclosed, S&P Global and other third-party suppliers of the same kinds of information and analyses may be less willing to supply reports to the Companies in the future. Diminishing the Companies' ability to receive this information would harm both the Companies and their customers. This information should therefore be afforded confidential protection to protect the Companies and their customers. The Commission has previously found that similar price forecasts are generally recognized as confidential or proprietary when submitted as part of an IRP.¹²

Confidential and Proprietary Customer Account Information

10. In response to SC 1-12(c)(i), the Companies are providing as an attachment a copy of an Engineering, Procurement, and Construction (“EPC”) Agreement entered into between LG&E and a new customer who has not yet initiated service. Similarly, in response to JI 1-64, the Companies are providing two attachments which include detailed project information about prospective new customer loads. These attachments contain confidential and proprietary terms that have not yet been made public and are the result of negotiations between LG&E and the new

¹¹ See *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).

¹² *2014 Integrated Resource Plan of Big Rivers Electric Corporation*, Case No. 2014-00166, Order at 19 (Ky. PSC Aug. 26, 2014).

or prospective customers. If publicly disclosed, competitors of the Companies will gain unfair insight into the Companies' negotiation process with prospective customers, and competitors will gain an unfair commercial advantage in attracting new customers to locate within a particular service territory. Because of these potential competitive harms that would result from public disclosure, the entire EPC Agreement provided in response to SC 1-12(c)(i), the entire Attachment 2 to JI 1-64, and the proprietary portion of Attachment 1 to JI 1-64 should remain confidential.

11. In response to JI 1-62, the Companies are providing two attachments that contain projections of potential revenue impacts caused by prospective large load customers. Public disclosure of such revenue projections would give market participants and competitors insights to the Companies' future revenue requirements that are not otherwise publicly available. The Commission has previously found that "revenue and rate projections submitted as part of an IRP are generally recognized as confidential or proprietary."¹³

12. In response to JI 1-66, the Companies are providing condition assessment reports and turbine-generator inspection reports for E.W. Brown Unit 3 and Ghent Unit 2. The reports contain the Companies' unit outage schedules and detailed future capital and maintenance project plans; both reports contain highly detailed unit condition information. Disclosure of this information would allow wholesale market participants to know or predict when the Companies' units will be down for maintenance and thus know the availability of the Companies' units to meet the Companies' loads, which affects the costs and availability of wholesale market power purchased by the Companies. The competitive risk of disclosing this information is that potential energy suppliers to the Companies will be able to manipulate the price of power bids to the Companies to maximize their revenues by knowing the Companies' outage schedules and detailed

¹³ *2014 Integrated Resource Plan of Big Rivers Electric Corporation*, Case No. 2014-00166, Order at 18 (Ky. PSC Aug. 26, 2014).

unit conditions, thereby causing higher prices for the Companies' customers and giving a commercial advantage to competitors. The Commission has previously found that outage schedules merit confidential protection.¹⁴ In addition, the turbine-generator inspection reports were prepared by third-party contractors and contain proprietary work product and intellectual property of the contractors. The reports are voluminous and the confidential and proprietary information is interspersed throughout the reports. Release of this information to the public could harm the relationship between the Companies and these vital contractors and others that provide valuable services to the Companies. If such information is disclosed, contractors may be less willing to provide such services to the Companies in the future, which could harm the Companies and their customers. The Companies are therefore requesting confidential protection for these reports in their entirety.

Confidential Personal Information — KRS 61.878(1)(a)

13. The Kentucky Open Records Act exempts from disclosure certain private and personal information.¹⁵

14. In response to JI 1-49(b), the Companies are providing attachments with transmission planning and analyses for specific potential large load customers, which include projected energy usage and non-public customer-specific pre-project information. Similarly, in response to JI 1-62 and 1-63, the Companies are providing attachments which include projected

¹⁴ *An Examination of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 2013 through April 30, 2014*, Case No. 2014-00227, and *An Examination of the Application of the Fuel Adjustment Clause of Louisville Gas and Electric Company from November 1, 2013 through April 30, 2014*, Case No. 2014-00452, Order (Ky. PSC Jan. 23, 2019); *Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2014-00372, Order Regarding Request for Confidential Treatment, (Ky. PSC Jan. 14, 2016); *An Examination of the Application of the Fuel Adjustment Clause of Kentucky Power Company from November 1, 2010 through October 31, 2012* (Case No. 2012-00550) (Ky. PSC Aug. 19, 2013).

¹⁵ KRS 61.878(1)(a).

energy usage information for new or prospective customers. The identification of specific customer information is personal information that should not be in the public domain.

15. For the EPC Agreement that the Companies are providing in response to SC 1-12(c)(i), in addition to the potential for competitive commercial harms as stated above, the EPC Agreement contains confidential personal information that should be withheld from the public record at this time. The EPC Agreement contains confidential, non-public information regarding a new customer who has not yet taken service from the Companies, including the customer's name, projected energy usage information, details about the customer's facilities' locations, and costs that the customer is incurring to construct certain facilities. The identification of specific customer information is personal information that should not be in the public domain.

16. The Commission has previously granted confidential protection to similar customer-identifying information, including usage information.¹⁶

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

17. Critical energy infrastructure information (“CEII”) is protected from public disclosure under KRS 61.878(1)(m)(1). The Kentucky Open Records Act exempts from public disclosure certain information that has 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.”¹⁷

18. The transmission information provided in the narrative response to JI 1-23 contains infrastructure records that could expose a vulnerability through the disclosure of the location,

¹⁶ *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-000221, Order at 1-2 (Ky. PSC July 25, 2013) (granting confidential protection to customer names, account numbers, and usage information).

¹⁷ KRS 61.878(1)(m)(1)(f).

configuration, or security 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' transmission system. Knowledge of such vulnerabilities may allow a person to cause public harm through by disrupting the electric transmission system.

Confidential Information Subject to this Petition

19. With the exception of information provided to the Companies by confidential vendors, RFP respondents, or S&P Global, the information for which the Companies are seeking confidential treatment is not known outside of LG&E and KU, 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.

20. The Companies will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors with legitimate interests in the information and as required by the Commission.

21. 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.¹⁸

22. In compliance with 807 KAR 5:001, Section 13, LG&E and KU are providing written notification that Attachments 1, 2, and 3 to SC 1-9(b); the attachment to SC 1-12(c)(i); Attachments 1 and 2 to SC 1-21(a); the attachment to KIUC 1-6(b); the zip file attachment to JI 1-

¹⁸ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. Ct. App. 1982).

49(b); Attachments 1 and 2 to JI 1-62; Attachment 2 to JI 1-63; Attachment 2 to JI 1-64; and Attachments 1, 2, 3, and 4 to JI 1-66 are confidential in full.

23. For the narrative response to KCA 1-11, the narrative response to JI 1-23, the attachments to PSC 1-6(b), PSC 1-27(b), AG 1-3, JI 1-5, and JI 1-35(d), and Attachment 1 to JI 1-64, 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 non-public transmission function information on the encrypted file-share site.

24. Due to the personally sensitive nature of customer-identifying information, the Companies request that the personal information provided in the responses to JI 1-49(b), JI 1-62, JI 1-63, and SC 1-12(c)(i) remain confidential indefinitely. Due to the sensitive nature of the CEII, the Companies request that the confidential portion of the response to JI 1-23 remain confidential indefinitely. For all other requests for confidential 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: December 18, 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 December 18, 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
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