

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
UTILITIES COMPANY AND LOUISVILLE GAS)	
AND ELECTRIC COMPANY FOR CERTIFICATES)	CASE NO.
OF PUBLIC CONVENIENCE AND NECESSITY)	2025-00045
AND SITE COMPATIBILITY CERTIFICATES)	

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 (the “Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878 to grant confidential protection for certain information included in the Companies’ responses to Data Requests from Commission Staff (“PSC”); Sierra Club (“SC”); Louisville Metro Government and Lexington-Fayette Urban County Government (“LMG-LFUCG”); the Office of the Attorney General and Kentucky Industrial Utility Customers, Inc. (“AG-KIUC”); and the Joint Intervenors (“JI”) in this proceeding.¹

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 permit an unfair commercial advantage to competitors of the entity disclosing the information to

¹ The confidential information contained in particular responses or their attachments, the statutory basis for confidentiality, and the extent of confidentiality (partial or entire) are listed in the document included herewith as **Attachment A**.

the Commission.² Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

Cost Estimates for Generation Resources

2. The Companies' responses include detailed cost estimates for the construction of their proposed combined cycle natural gas ("NGCC") resources at Brown and Mill Creek, as well as the proposed battery energy storage system ("BESS") at Cane Run. This includes existing build-transfer agreements, new generation feasibility studies, internal capital estimates, and current estimates of engineering, procurement and construction ("EPC") and original equipment manufacturer ("OEM") costs. This information was developed internally by the Companies' personnel, is not on file with any public agency, is not available from any commercial or other source outside the Companies, and is distributed within the Companies only to those employees who must have access for business reasons. If the Commission grants public access to this information, LG&E and KU could be disadvantaged in negotiating the construction contracts for these units.

3. Public disclosure of this information would reveal the factors and inputs considered by the Companies in evaluating the viability of its generation projects and would give the Companies' contractors, vendors, and competitors access to the Companies' cost parameters for these planned generation projects. Disclosure of this information would hamper the Companies' competitive bid processes now and in the future.³ 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

² KRS 61.878(1)(c)(1).

³ See *Electronic 2023 Integrated Resource Plan of Big Rivers Electric Corporation*, Case No. 2023-00310, (Ky. PSC Oct. 17 2024) Order at 3 ("[T]he Commission has determined that bidders can use pricing information to manipulate the bidding process, disadvantaging the utility with competitors.").

would ultimately harm LG&E's and KU's customers, who would have to pay higher rates if the disclosed information increased capital costs for the proposed facilities. For these reasons, the Companies request confidential protection for the responses to AG-KIUC 1-18, 1-28, 1-30(d), 1-30(e), 1-30(h); JI 1-25(a), JI 1-52(c) and (d); 1-93(e); PSC 1-34(a); LMG-LFUCG 1-11(b); and SC 1-13(b).

Power Production and Maintenance Information

4. The Companies seek confidential protection for information regarding power production and maintenance, including projected costs of fuel, production costs, O&M costs, emissions allowances prices, cost escalation estimates, heat rate curves across generation units, and information regarding projected power sales prices and revenue requirements for the proposed generation projects. This information was developed internally by the Companies' personnel, is not on file with any public agency, is not available from any commercial or other source outside the Companies and is distributed within the Companies only to those employees who must have access for business reasons. Public disclosure of this information 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, which would impact the Companies' ability to negotiate with these parties and 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 Companies' generation asset procurement process or off-system energy sales. For these reasons,

the Companies request confidential protection for the responses to JI 1-4, 1-22, 1-25(a), 1-93(e), 1-97(b); PSC 1-32; and SC 1-13(b), 1-25(c)(ii).

RFP Bid Information and Bidder Strategy

5. The Companies' responses also contain information relating to supply-side alternatives from their recent request for proposals ("RFP"), OEM and EPC bidder design strategy, and submissions to the Companies' January 2021 RFP.⁴ Disclosure of this information 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, which 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 Companies' generation asset procurement process or off-system energy sales. In addition, certain supply-side information concerns interruptible contract information specific to identifiable customers of the Companies and should be protected as sensitive commercial information that could harm the Companies and their customers if disclosed. For these reasons, the Companies request confidential protection for the responses to AG-KIUC 1-18, AG-KIUC 1-41(d), and SC 1-21.

⁴ This Companies have previously requested confidential protection for RFP information in their Integrated Resource Plan proceedings. See *Electronic Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2024-00326 (Ky. PSC Oct. 18, 2024); *Electronic Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2021-00393 (Ky. PSC Jan. 21, 2022).

Unit Maintenance Schedules

6. Certain responses to intervenor data requests include 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 would 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 LG&E's and KU's competitors. The Commission has previously granted the Companies' requests to protect this information from public disclosure.⁵ For these reasons, the Companies request confidential protection for the attachments to AG-KIUC 1-18.

Sensitive Contract Information

7. The Companies' responses include confidential details of the Companies' plans regarding executed and pending agreements with a variety of third parties, which include vendor names, cost components, PPA prices, specific performance terms, timelines for long-term service agreements and firm contracts, the Companies' unit reservation agreement with GE, and the existing build-transfer agreement. Public disclosure of this information 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, competitors, and customers access to the Companies' cost and operational parameters,

⁵ See, e.g., *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas & 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 (Ky. PSC Aug. 17, 2023).

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 Companies' generation asset procurement process or off-system energy sales. For these reasons, the Companies request confidential protection for the responses to AG-KIUC 1-18, 1-28(a), 1-30(d), 1-30(e), 1-41(d); JI 1-75, 1-5(b), 1-17(a), 1-18(a); PSC 1-34(a); and LMG-LFUCG 1-11(b).

Proprietary Software Information Licensed to the Companies

8. The Companies are also providing energy risk valuation information obtained from a third party, namely the SERVVM scenario modeling software. SERVVM workpapers are being provided to the Commission in native file format. The Companies' use of the SERVVM modeling software and file formats is subject to license agreements that disallow circulation of these formats to parties without a valid SERVVM license. If this proprietary information is disclosed, the vendor may seek to cancel the Companies' license agreement and pursue additional remedies. Additionally, other third-party suppliers of the same kinds of information and systems may be less willing to supply reports to the Companies in the future. Without these systems the Companies would be unable to adequately model and prepare for system risks, which would harm the Companies and their customers. This information should therefore be afforded confidential protection to protect the Companies and their customers.

9. The Companies' response to SC 1-13(b) contains native file format and spreadsheet versions of resource modeling inputs and outputs which were used in the SERVVM software. The Companies' agreement with SERVVM disallows the disclosure of any SERVVM files in their original

format to any party without a valid SERVVM license. For this reason, the Companies will provide SERVVM files to any party to this proceeding with both an executed confidentiality agreement with the Companies and an active SERVVM license. All other parties with executed confidentiality agreements will receive the files in a spreadsheet format.

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

10. 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.”⁶

11. Both the feasibility studies provided with the Companies’ response to SC 1-11 and the system impact data provided in the response and attachments to SC 1-41 contain infrastructure records, load data, and impact reports that could expose a vulnerability through the disclosure of the location, 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 configuration of the Companies’ transmission system. Knowledge of such configuration may allow a person to cause public harm by disrupting the electric transmission system.

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

12. The Kentucky Open Records Act exempts from disclosure certain private and personal information.⁷

⁶ KRS 61.878(1)(m)(1)(f).

⁷ KRS 61.878(1)(a).

13. In response to JI 1-6(a), the Companies are providing attachments with transmission service request (“TSR”) information. These attachments include confidential planning and analyses for specific potential large load customers, which include projected energy usage and non-public customer-specific pre-project information. The identification of specific customer information is personal information that should not be in the public domain. The Commission has previously granted confidential protection to similar customer-identifying information, including usage information.⁸

Confidential Information Subject to this Petition

14. The information for which the Companies are seeking confidential treatment is not known outside of LG&E and KU and its contractors, 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.

15. The Commission has consistently granted confidential protection to similar information in previous cases.⁹

16. 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.

⁸ *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).

⁹ See, e.g., *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2018-00348, Order (Ky. PSC Nov. 16, 2018); *2014 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, Case No. 2014-00131, Order (Ky. PSC Aug. 9, 2019).

17. 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.¹⁰

18. In compliance with 807 KAR 5:001, Section 13, LG&E and KU are providing written notification that the items listed in Attachment A to this Petition that are flagged "entirely confidential" are confidential in full.

19. For all other items listed in Attachment A to this Petition, 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.

20. Due to the serious security concerns related to the disclosure of CEII, the Companies request that the CEII identified in Attachment A remain confidential indefinitely. Due to the personally sensitive nature of customer-identifying information, the Companies request that the personal information identified in Attachment A 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.

¹⁰ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. Ct. App. 1982).

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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 17, 2025; 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, appearing to read "A. B. Smith", is written above a horizontal line.

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

ATTACHMENT A

Confidential Information

<i>Confidential Information</i>	<i>Source of Claim</i>	<i>Partially or Entirely?</i>
<u>Response to Commission Staff's First Request for Information</u>		
• NGCC Operational Costs (Attachment to PSC 1-32)	KRS 61.878(1)(c)(1)	Partially
• Terms of GE Unit Reservation Agreement for Brown 12 (Response to PSC 1-34(a))	KRS 61.878(1)(c)(1)	Partially
<u>Response to Joint Intervenor's Initial Request for Information</u>		
• Revenue requirements excluding variable fuel in first full year of operation for each project (Attachments to JI 1-4)	KRS 61.878(1)(c)(1)	Entirely
• Agreement with Project Shelby (Attachments to JI 1-5(b))	KRS 61.878(1)(c)(1)	Entirely
• Transmission Service Request Applications (Attachment to JI 1-6(a))	KRS 61.878(1)(a)	Entirely
• Build-transfer agreement with FRON (Attachment to JI 1-17(a))	KRS 61.878(1)(c)(1)	Partially
• Unit Reservation Agreement with GE (Attachments to JI 1-18(a))	KRS 61.878(1)(c)(1)	Partially
• Monthly Production Cost Workbook (Attachments to JI 1-22)	KRS 61.878(1)(c)(1)	Entirely
• Load and Generation Addition Scenarios (Attachment to JI 1-25(a))	KRS 61.878(1)(c)(1)	Entirely
• GE internal operational information (Responses to JI 1-52(c)&(d))	KRS 61.878(1)(c)(1)	Partially
• Factors considered in executing URA with GE (Response to JI 1-75)	KRS 61.878(1)(c)(1)	Partially
• Avoided Capacity Cost & Marginal Costs (Attachments to JI 1-93(e))	KRS 61.878(1)(c)(1)	Partially
• Fuel Price Forecasts (Attachment to JI 1-97(b))	KRS 61.878(1)(c)(1)	Entirely
<u>Response to Sierra Club's Initial Request for Information</u>		
• New Generation Feasibility Studies (Attachments to SC 1-11(c)&(d))	KRS 61.878(1)(m) KRS 61.878(1)(c)(1)	Entirely
• SERVM files to execute studies within SERVM software (Attachment to SC 1-13(b))	KRS 61.878(1)(c)(1)	See ¶¶ 8-9.
• January 2021 RFP and Responses	KRS 61.878(1)(c)(1)	Entirely

(Attachments to SC 1-21)		
• Company heat rate curves (Attachments to SC 1-25(c)(ii))	KRS 61.878(1)(m)	Entirely
• Data Center System Study Impact Reports (Attachments to SC 1-41(a))	KRS 61.878(1)(m)	Entirely
• Data Center Internal Reports (Attachments to SC 1-41(b))	KRS 61.878(1)(m)	Entirely
• Data Center load data (Attachments to SC 1-41(e))	KRS 61.878(1)(c)(1)	Entirely
<u>Response to AG-KIUC's First Request for Information</u>		
• Fuel prices, emission prices, planned maintenance schedules, RFP bid data, LTSA costs, and CCR pricing (Attachment to AG-KIUC 1-18)	KRS 61.878(1)(c)(1)	Partially
• EPC and OEM Components for MC5; BR12; MC6 and GR5 (Response to AG-KIUC 1-28)	KRS 61.878(1)(c)(1)	Partially
• Current estimates for EPC costs (Response to KIUC-AG 1-30(d))	KRS 61.878(1)(c)(1)	Partially
• Material Procurement Contract/Limited Notice to Proceed Contract with Burns & McDonnell (Attachment to AG-KIUC 1-30(e))	KRS 61.878(1)(c)(1)	Partially
• BESS Cost Estimates 2025-2029 (Attachments to AG-KIUC 1-30(h))	KRS 61.878(1)(c)(1)	Entirely
• OEM and EPC bidder design strategy (Response to 1-41(d))	KRS 61.878(1)(c)(1)	Partially
<u>Response to LMG-LFUCG's First Request for Information</u>		
• Firm price contract timelines for proposed NGCCs (Response to LMG-LFUCG 1-11(b))	KRS 61.878(1)(c)(1)	Partially