

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS)	
ADJUSTMENT FILING OF LOUISVILLE)	CASE NO.
GAS AND ELECTRIC COMPANY)	2017-00457

ORDER

On January 2, 2018, Louisville Gas and Electric Company (LG&E) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c) requesting that the Commission grant confidential protection for an indefinite period to the identity of the gas suppliers listed in the summary of the total purchased gas costs for the period of August through October 2017 (Summary).

As a basis for its request, LG&E states that the designated material contains sensitive commercial information that if disclosed, would injure LG&E's ability to negotiate future gas supply contracts at advantageous prices. LG&E further asserts that disclosure of the information would permit an unfair advantage to its competitors for both gas supplies and retail gas load.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."¹ The exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The

¹ KRS 61.872(1).

² See KRS § 61.871.

party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³ In determining whether materials should be exempt from disclosure, the Commission must balance the potential harm from disclosure with “the effect of protecting a given document from scrutiny by the public and potential intervenors.”⁴

Having considered the petition and the material at issue, the Commission finds that the identity of the gas suppliers located in the Summary is generally recognized as confidential or proprietary; it, therefore, meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c).

IT IS THEREFORE ORDERED that:

1. LG&E’s petition for confidential protection for the identity of the gas suppliers located in the Summary is granted.
2. The identity of the gas suppliers located in the Summary shall not be placed in the public record or made available for public inspection until further Order of this Commission.
3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
4. LG&E shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.

³ 807 KAR 5:001, Section 13 (2)(c).

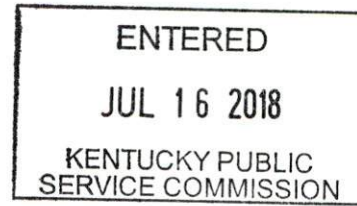
⁴ *Southeastern United Medigroup, Inc. v. Hughes*, 952 S.W.2d 195, 199 (Ky. 1997), *abrogated on other grounds by Hoskins v. Maricle*, 150 S.W.3d 1 (Ky. 2004).

5. If a non-party to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, LG&E shall have 20 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If LG&E is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 20 days following an Order finding that the material no longer qualifies for confidential treatment in order to allow LG&E to seek a remedy afforded by law.

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By the Commission



ATTEST:


Executive Director

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