

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE	)	
GAS AND ELECTRIC COMPANY AND KENTUCKY	)	
UTILITIES COMPANY FOR APPROVAL OF A	)	
SOLAR POWER CONTRACT AND TWO	)	CASE NO.
RENEWABLE POWER AGREEMENTS TO	)	2020-00016
SATISFY CUSTOMER REQUESTS FOR A	)	
RENEWABLE ENERGY SOURCE UNDER GREEN	)	
TARIFF OPTION #3	)	

ORDER

This matter arises upon three petitions for confidential treatment jointly filed by Louisville Gas and Electric Company (LG&E) and Kentucky Utilities Company (KU) (jointly, LG&E/KU) on January 23, 2020, February 5, 2020, and February 26, 2020. LG&E/KU requested confidential treatment for the designated materials pursuant to 807 KAR 5:001, Section 13, KRS 61.878(1)(a), and KRS 61.878(1)(c)(1).

JANUARY 23, 2020 PETITION

In the January 23, 2020 petition, LG&E/KU requested confidential treatment for five years for designated materials contained in exhibits to their joint application, the Direct Testimony of David S. Sinclair (Sinclair Testimony), and exhibits to the Sinclair Testimony. As a general basis for their request, LG&E/KU asserted that the designated materials contain commercially sensitive information and that public disclosure would permit an unfair commercial advantage to competitors. The designated materials are more specifically described as follows:

- Application, Exhibit 1, the Power Purchase Agreement dated November 21, 2019 (PPA). LG&E/KU requested confidential treatment for the energy payment rate that LG&E/KU will pay Rhudes Creek Solar, LLC (Rhudes Creek Solar) for solar energy. LG&E/KU asserted that public disclosure of this information will adversely affect their ability to negotiate the most favorable rates for similar services in the future. LG&E/KU further asserted that the PPA contained a provision requiring the parties to limit their disclosure of confidential information, such as pricing terms.

- Application, Exhibits 2 and 3, the Renewable Power Agreements (RPA) with Toyota Motor Manufacturing Kentucky, Inc. (Toyota) and Dow Silicones Corporation (Dow), respectively. LG&E/KU requested confidential treatment for the price that Toyota and Dow will pay for the renewable energy. LG&E/KU asserted that public disclosure of this information will adversely affect their ability to negotiate the most favorable rates for similar services in the future.

- Sinclair Testimony. LG&E/KU requested confidential treatment for the PPA's pricing terms and for data contained in the analysis of responses to the renewable request for proposals (Renewable RFP), including bid prices, projected fuel process, and projected revenue requirements and energy costs savings based upon projected fuel prices. LG&E/KU asserted that public disclosure of the PPA pricing terms would violate LG&E/KU's contractual obligation to keep the terms confidential and will adversely affect LG&E/KU's ability to negotiate the most favorable contract terms for similar services in the future. LG&E/KU further asserted that public disclosure of the Renewable RFP bids provides the bidding vendors' competitors access to sensitive operational and pricing

information, which would disrupt the competitive bid process and adversely affect the willingness of vendors to respond to future RFPs.

- Sinclair Testimony, Exhibit DSS-2, 2019 Resource Assessment Renewable RFP. LG&E/KU requested confidential treatment for the responses to the Renewable RFP and the screening analysis for comparison of those responses, which contain cost proposals, projected fuel prices, and projected revenue requirements and energy costs savings based upon projected fuel prices. LG&E/KU asserted that public disclosure of the Renewable RFP bids provides the bidding vendors' competitors access to sensitive operational and pricing information, which would disrupt the competitive bid process and adversely affect the willingness of vendors to respond to future RFPs.

The Commission is not persuaded that disclosure of the solar energy payment rate would impose an unfair competitive disadvantage on LG&E/KU in future negotiations involving wholesale power purchase agreements. These designated materials should be denied confidential treatment based upon principles of transparency regarding the evidence that the Commission relies upon in rendering its determinations. The solar energy payment rate, particularly for the 25 MW of solar power allocated to LG&E/KU's native load, concern the cost impact that the Commission will fully and specifically address in fuel adjustment clause (FAC) proceedings. Thus, the Commission must be able to address the PPA pricing and cost impact, particularly of the 25 MW of solar power for LG&E/KU's native load, with transparency. Further, LG&E/KU's claim that they are contractually obligated not to disclose the solar energy payment rate, and thus override the provisions of statutory law by contract, is without support. For the above reasons, the

Commission finds that confidential treatment should be denied for these designated materials

The Commission is persuaded the remaining designated materials in the January 23, 2020 petition meet the criteria for confidential treatment under KRS 61.878(1)(a), KRS 61.878(1)(c)(1), and 807 KAR 5:001, Section 13, and therefore should be granted confidential treatment.

#### FEBRUARY 5, 2020 PETITION

In the February 5, 2020 petition, LG&E/KU requested confidential treatment for five years for designated materials contained in their joint response to Commission Staff's First Request for Information (Staff's First Request), Item No. 3. The designated materials contain LG&E/KU's marginal unit dispatch order and cost, including fuel and variable operating costs, for every unit in one-hour increments over the past two years. As a basis for their request, LG&E/KU asserted that the designated materials contain commercially sensitive information and that public disclosure would permit an unfair commercial advantage to competitors. LG&E/KU further asserted that public disclosure of the designated materials would provide insight into LG&E/KU's business decisions regarding the prices for selling and purchasing power, which would adversely impact their ability to negotiate future contracts and harm their competitive position in the wholesale power market, resulting in higher rates for LG&E/KU's customers.

The Commission is persuaded the designated materials in the February 5, 2020 Petition meet the criteria for confidential treatment under KRS 61.878(1)(a), KRS 61.878(1)(c)(1), and 807 KAR 5:001, Section 13, and therefore should be granted confidential treatment.

## FEBRUARY 26, 2020 PETITION

In the February 26, 2020 petition, LG&E/KU requested confidential treatment for five years for designated materials contained in their joint response to Commission Staff's Second Request for Information (Staff's Second Request) and to the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention's Second Request for Information (Attorney General's Second Request). As a general basis for their request, LG&E/KU asserted that the designated materials contain commercially sensitive information and that public disclosure would permit an unfair commercial advantage to competitors. The designated materials are more specifically described as:

- Staff's Second Request, Item No. 1(c), Attachments 1 and 2. LG&E/KU requested confidential treatment for the calculation of the estimated fuel savings for the 25 megawatts (MW) of energy purchased under the PPA that will be allocated to native load. The 25 MW of energy will displace higher-cost energy in the economic dispatch of fossil fuel generation units. LG&E/KU stated that Attachment 1 contains the net present value revenue requirement (NPVRR) effects of the PPA under various pricing scenarios and includes projected fuel prices, and revenue requirements and energy cost savings based upon projected prices. LG&E/KU further stated that Attachment 2 contains the detailed hourly calculation of energy cost savings from displaced generation for one of the scenarios contained in Attachment 1. LG&E/KU asserted that public disclosure of the designated materials will provide information regarding LG&E/KU's costs for producing, selling, and purchasing power, which would harm LG&E/KU's ability to negotiate with prospective contractors and could harm LG&E/KU's competitive position in the wholesale market, resulting in higher rates for LG&E/KU's customers.

- Staff's Second Request, Item No. 5(b). LG&E/KU requested confidential treatment for the target ramp rate and summer capacity rating for each of LG&E/KU's coal-fired generation units. LG&E/KU asserted that public disclosure of the designated materials would provide information about LG&E/KU's ability to meet load demands, and thus could disadvantage LG&E/KU in the wholesale power market, resulting in higher rates for customers.

- Staff's Second Request, Item No. 5(d)(2). LG&E/KU requested confidential treatment for data regarding actual fuel savings achieved in 2019 from LG&E/KU's Brown solar facility, including hourly incremental energy costs, and the prices and broker fees for specific renewable energy certificate (REC) sales. LG&E/KU asserted that public disclosure of the designated materials would provide information into their cost of producing power and the prices obtained for REC sales, which would adversely affect LG&E/KU's ability to negotiate with prospective contractors and harm LG&E/KU's competitive position in the wholesale power market. LG&E/KU further asserted that public disclosure of the designated materials could result in higher rates for customers.

- Staff's Second Request, Items Nos. 9 and 10. LG&E/KU requested confidential treatment for the actual and sample bills for Toyota and Dow, reflecting rates and credits had the RPAs been in effect for that billing period, which includes customer-specific information including billing data. LG&E/KU asserted that the designated materials contained personal information for which public disclosure is prohibited by KRS 61.878(1)(a).

- Attorney General's Second Request, Item No. 19. LG&E/KU requested confidential treatment for pricing assumptions that underlie the impacts of the PPA on

average residential customers. LG&E/KU asserted that public disclosure of the designated materials would provide information regarding LG&E/KU's cost of producing power, which would harm LG&E/KU's competitive position in the wholesale power market.

- Attorney General's Second Request, Item No. 26. LG&E/KU requested confidential treatment for data contained in the Renewable RFP proposals, including comparisons of pricing information. LG&E/KU asserted that public disclosure of the designated materials would disrupt the competitive bid process and reveal internal analysis of bids, which would disrupt the competitive bid process and adversely affect the willingness of vendors to respond to future RFPs.

The Commission is persuaded the designated materials in the February 26, 2020 Petition meet the criteria for confidential treatment under KRS 61.878(1)(a), KRS 61.878(1)(c)(1), and 807 KAR 5:001, Section 13, and therefore should be granted confidential treatment.

Having considered the petitions and the materials at issue, the Commission finds that:

1. The solar energy payment rate does not meet the criteria for confidential treatment.
2. The remaining information designated in the Application, Exhibits 1, 2, and 3; Sinclair Testimony; Sinclair Testimony, Exhibit DSS-2; and Responses to Staff's First Request, Staff's Second Request, and the Attorney General's Second Request meet the criteria for confidential treatment under KRS 61.878(1)(a), KRS 61.878(1)(c)(1), and 807 KAR 5:001, Section 13, and therefore should be granted confidential treatment.

IT IS THEREFORE ORDERED that:

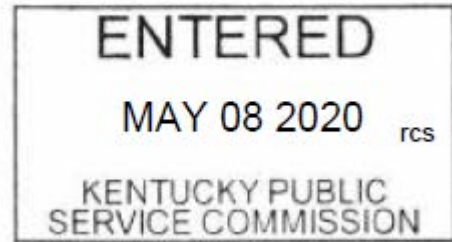
1. LG&E/KU's January 23, 2020 petition for confidential treatment is granted in part and denied in part.
2. LG&E/KU's request for confidential treatment for the designated material in the January 23, 2020 petition, with the exception of the solar energy payment rate, is granted.
3. LG&E/KU's request for confidential treatment for the solar energy payment rate in the January 23, 2020 petition for confidential treatment is denied.
4. LG&E/KU's February 5, 2020 and February 26, 2020 petitions for confidential treatment are granted.
5. The materials for which LG&E/KU's request for confidential treatment has been granted shall remain confidential for five years from the date of entry of this Order.
6. Within 30 days of the date of this Order, LG&E/KU shall file a revised version of the designated materials for which confidential protection was denied, reflected as unredacted the information that has been denied confidential treatment.
7. The material for which LG&E/KU's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of this Order to allow LG&E/KU to seek a remedy afforded by law.
8. Use of the materials that were granted confidential treatment in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
9. LG&E/KU shall inform the Commission if the materials granted confidential treatment become publicly available or no longer qualify for confidential treatment.



10. 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 run, LG&E/KU shall have 30 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If LG&E/KU is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

11. The Commission shall not make the materials granted confidential treatment available for inspection for 30 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow LG&E/KU to seek a remedy afforded by law.

By the Commission



ATTEST:



Executive Director

\*Honorable Allyson K Sturgeon  
Senior Corporate Attorney  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202

\*Kentucky Utilities Company  
220 W. Main Street  
P. O. Box 32010  
Louisville, KY 40232-2010

\*John Horne  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Louisville Gas and Electric Company  
220 W. Main Street  
P. O. Box 32010  
Louisville, KY 40232-2010

\*Honorable Kendrick R Riggs  
Attorney at Law  
Stoll Keenon Ogden, PLLC  
2000 PNC Plaza  
500 W Jefferson Street  
Louisville, KENTUCKY 40202-2828

\*Larry Cook  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*J. Michael West  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Rick E Lovekamp  
Manager - Regulatory Affairs  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202

\*Robert Conroy  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202