

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS ADJUSTMENT	)	CASE NO.
FILING OF LOUISVILLE GAS AND ELECTRIC	)	2021-00251
COMPANY	)	

ORDER

On June 30, 2021, Louisville Gas and Electric Company (LG&E) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period for certain information that is contained in its Quarterly Gas Supply Clause filing, specifically, two pages in Exhibit B-1, pages 6 and 7, containing the names of suppliers of natural gas to LG&E. LG&E proposed that the identity of each supplier be kept confidential.

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."<sup>1</sup> Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.<sup>2</sup> The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.<sup>3</sup>

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<sup>1</sup> KRS 61.872(1).

<sup>2</sup> See KRS 61.871.

<sup>3</sup> 807 KAR 5:001, Section 13(2)(c).

In support of its petition, LG&E argued that the referenced pages in the Exhibit contain sensitive commercial information, the disclosure of which would injure LG&E's ability to negotiate future gas supply contracts at advantageous prices and minimize the price of natural gas to its customers, unfairly advantaging LG&E's competitors for both gas supplies and retail gas load. LG&E also claimed that any impairment of its ability to obtain the most advantageous price possible from natural gas producers and marketers will necessarily erode LG&E's competitive position vis-a-vis other energy suppliers that compete in LG&E's service territory, as well as other LDCs with whom LG&E competes for new and relocating industrial customers. Finally, LG&E claimed it has contractual obligations to keep the information confidential. LG&E sought the application of KRS 61.878(1)(c)(1), which exempts records that are "[g]enerally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records."

Having considered the petition and the material at issue, the Commission finds that pages 6 and 7 of Exhibit B-1 contain information that is generally recognized as confidential or proprietary and competitively sensitive; they therefore meet the criteria for confidential treatment and are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).<sup>4</sup>

IT IS THEREFORE ORDERED that:

1. LG&E's petition for confidential treatment is granted.

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<sup>4</sup> The Commission has previously granted confidential treatment for gas supply contract terms, including pricing, pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13. See, e.g., Case No. 2018-00337, *Atmos Energy Corporation* (Ky. PSC Jan. 24, 2019).

2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.

3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. LG&E shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty 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 30 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 30 days from the date of service of 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.

PUBLIC SERVICE COMMISSION

  
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Chairman

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Vice Chairman

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Commissioner



ATTEST:

  
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