

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE	)	
GAS AND ELECTRIC COMPANY FOR AN	)	CASE NO.
ORDER AUTHORIZING THE ISSUANCE OF	)	2023-00398
INDEBTEDNESS	)	

ORDER

On January 23, 2024, 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 certain information LG&E provided in response to Commission Staff's First Request for Information (Staff's First Request), Item 4 until PPL Corporation files its Form 10-K with the U.S. Securities and Exchange Information (SEC) and completes the associated earnings or investor presentation, which is currently expected to be no later than March 1, 2024.

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> KRS 61.878(1)(c)(1) provides an exception to

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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).

the requirement for public disclosure of records that are “generally recognized as confidential and proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”<sup>4</sup>

LG&E argued that the figures in the Year End Capitalization Structure table provided in response to Staff’s First Request, Item 4 is confidential because it contains information regarding LG&E’s estimated capitalization structure during the years 2024-2027, based upon the 2024 Business Plan, as approved by PPL Corporation’s Board, and other information or estimates of the Company’s management, not yet been made publicly available, but expected to become publicly available by March 1, 2024, in connection with the filing of PPL Corporation’s Annual Report on Form 10-K. LG&E stated that this information provides premature insight into the Company’s anticipated financial structure over the next four years and premature disclosure could risk creating a selective disclosure of financial information that is not otherwise available to the public and investors. LG&E argued that pursuant to KRS 61.878 (1)(c)(1), the Kentucky Open Records Act exempts from disclosure certain records 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 information relating to a utility’s business plans is generally recognized as confidential or

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<sup>4</sup> KRS 61.878(1)(c)(1).

proprietary,<sup>5</sup> it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878 (1)(c)(1).

IT IS THEREFORE ORDERED that:

1. LG&E's January 23, 2024 petition for confidential treatment is granted.
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 one year 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.

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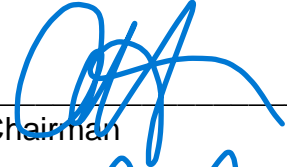
<sup>5</sup> Information relating to a utility's business plans was granted confidentiality pursuant to KRS 61.878(1)(c)(1), when the Commission previously found that such information, if openly disclosed would permit an unfair commercial advantage. See Case No. 2016-00370, *Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates and for Certificates of Public Convenience and Necessity*, (Ky. PSC Dec. 10, 2018), Order at 3, 5.

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.

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PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

\*Honorable Allyson K Sturgeon  
Managing Senior Counsel - Regulatory &  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202

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

\*Rick E Lovekamp  
Manager Regulatory Affairs  
Louisville Gas and Electric Company  
220 W. Main Street  
P. O. Box 32010  
Louisville, KY 40202

\*Robert Conroy  
Vice President, State Regulation and Rates  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202

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

\*Sara Judd  
Senior Corporate Attorney  
LG&E and KU Energy LLC  
220 West Main Street  
Louisville, KENTUCKY 40202

\*Tadd J. Henninger  
Senior Vice President-Finance & Treasurer  
PPL Corporation  
Two North Ninth Street  
Allentown, PENNSYLVANIA 18101