

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF LOUISVILLE)	
GAS AND ELECTRIC COMPANY AND)	CASE NO.
KENTUCKY UTILITIES COMPANY SERVICE)	2023-00422
RELATED TO WINTER STORM ELLIOTT)	

ORDER

On March 8, 2024, Louisville Gas and Electric Company and Kentucky Utilities Company (jointly, LG&E/KU) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for certain attachments provided in their supplemental response to Commission Staff's First Request for Information (Staff's First Request), Item 86 pursuant to KRS 61.878(1)(m)(1), KRS 61.878(1)(k), 18 CFR § 358.5(a) and 358.6(a), and KRS 61.878(1)(a).

Critical Energy Infrastructure Information

LG&E/KU is seeking confidentiality for an indefinite period for six attachments¹ in their entirety for the supplemental response to Staff's First Request, Item 86 pursuant to KRS 61.878(1)(m)(1) and KRS 61.878(1)(k). According to the petition, these attachments reveal details of the LG&E/KU emergency contingency plans related to adequacy and stability of the electric system.²

¹ As named by applicants: LGE-KU002_0000462, LGE-KU002_0000464 LGE-KU002_0000466, LGE-KU002_0000535, LGE-KU002_0000718, and LGE-KU002_0000720.

² Joint Petition of LG&E/KU for Confidential Treatment (Petition)(filed Mar. 8, 2024) at 2, paragraph 5.

LG&E/KU is also seeking confidentiality for an indefinite period for portions of two other attachments³ to their supplemental response to Staff's First Request, Item 86, pursuant to KRS 61.878(1)(m)(1) and KRS 61.878(1)(k). According to the petition, these portions contain information about specific transmission lines and ratings, detailed energy infrastructure data and voltage information, and information related to system stability and mitigation planning, which refers to the system's ability to maintain normal operations in the event of a single outage, such as an unplanned loss of a transmission line, generator, or transformer.⁴

In support of its petition, LG&E/KU argued that the information in these eight attachments are considered Critical Energy Infrastructure Information (CEII), as defined by 18 CFR 388.113, and the disclosure of which could create serious security concerns by exposing vulnerabilities of public utility critical systems and configurations, which could cause public harm through the disruption of the electric system.⁵ LG&E/KU did not provide evidence that the information in the attachments has been designated CEII under the federal regulation; however, LG&E/KU noted that the Commission has historically recognized the need for confidential treatment of similar sensitive information.⁶

³ As named by the applicants: LGE-KU002_0000830 and LGE-KU0002_0000855.

⁴ Petition at 2, paragraph 4.

⁵ Petition at 3, paragraph 6.

⁶ See Case No. 2018-00348, *Electronic 2018 Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company* (Ky. PSC Nov. 16, 2018), Order at 3; Case No. 2018-00348, Apr. 3, 2020 Order at 2-3, in which the Commission found that the transmission infrastructure information met the criteria for confidential treatment and is exempted from public disclosure.

Having considered the petition and the material at issue, the Commission finds that the six attachments⁷ be granted confidential treatment for an indefinite period in their entirety pursuant to KRS 61.878(1)(m)(1) because these attachments reveal detail of emergency contingency plans related to adequacy and stability of the electric system and have a reasonable likelihood of threatening public safety by exposing a vulnerability. A determination regarding the applicability of KRS 61.878(1)(k) could not be reached because the record is unclear if the six attachments have been determined to be CEII pursuant to 18 CFR 388.113.

The Commission also finds that the redacted portions of the two other attachments⁸ be granted confidential treatment for an indefinite period pursuant to KRS 61.878(1)(m)(1) because the redactions contain information about specific transmission lines and ratings, detailed energy infrastructure data and voltage information, and information related to system stability and mitigation planning records and have a reasonable likelihood of threatening public safety by exposing a vulnerability. A determination regarding the applicability of KRS 61.878(1)(k) could not be reached because the record is unclear if portions the two attachments have been determined to be CEII pursuant to 18 CFR 388.113.

⁷ See footnote 1 at 1 in this Order.

⁸ See footnote 3 at 2 in this Order.

Non-Public Transmission Function Information

LG&E/KU is seeking confidential protection indefinitely, or until the information becomes public, for eight attachments⁹ to their supplemental response to Staff's First Request, Item 86, pursuant to KRS 61.878(1)(k) and 18 CFR § 358.5(a) and 358.6(a). According to LG&E/KU, these eight attachments contain non-public transmission function information that should be treated confidentially to ensure that they are not accessible to LG&E/KU marketing function employees.¹⁰

LG&E/KU stated that the Federal Energy Regulatory Commission Standards of Conduct for Transmission Providers, as stated in 18 CFR § 358.5(a) and 358.6(a), impose the "independent functioning rule," which requires transmission function and marketing function employees to operate independently of each other, and the "no-conduit rule," which prohibits passing non-public transmission function information to marketing function employees respectfully.¹¹ LG&E/KU argued that disclosure of this information would provide marketing function employees with access to information concerning load resources of load serving entities within the LG&E/KU Balancing Authority Area, non-public information about area control error data, and non-public information related to system stability and mitigation planning; that, in turn, would violate the federal regulation which prohibits passing transmission function information to marketing function employees.¹²

⁹ As named by applicants: LGE-KU002_0000462, LGE-KU002_0000464 LGE-KU002_0000466, LGE-KU002_0000535, LGE-KU002_0000718, LGE-KU002_0000720, LGE-KU002_0000830 and LGE-KU002_0000855.

¹⁰ Petition at 4, paragraph 9.

¹¹ Petition at 3, paragraph 8.

¹² Petition at 4, paragraph 10.

Having considered the petition and the material at issue, the Commission finds that the eight attachments¹³ be granted confidential treatment indefinitely or until such time the information becomes public pursuant to KRS 61.878(1)(k) and 18 CFR § 358.5(a) and 358.6(a) to ensure transmission function employees function independently of marketing function employees.

Confidential Personal Information

LG&E/KU is seeking confidential treatment for an indefinite period for certain and identified information contained in two additional attachments¹⁴ to their supplemental response to Staff's First Request, Item 86, pursuant to KRS 61.878(1)(a).

According to the petition, these attachments contain Curtailable Service Rider (CSR) customer-specific data, including customer names and load information. LG&E/KU argued that portions of these attachments contain customer information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.¹⁵

Having considered the petition and the material at issue, the Commission finds that portions of the two attachments be granted confidential treatment indefinitely pursuant to KRS 61.878(1)(a) because they contain information related to customers which is of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

¹³ See footnote 9 at 3 in this Order.

¹⁴ As named by the applicants: LGE-KU002_0000480 and LGE-KU0002_0000876.

¹⁵ Petition at 5, paragraph 13.

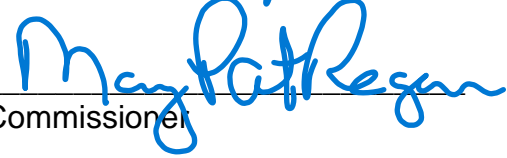
IT IS THEREFORE ORDERED that:

1. LG&E/KU's March 8, 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 indefinitely, 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. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, LG&E/KU shall inform the Commission and file with the Commission an unredacted copy of the designated material.
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/KU 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/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.
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/KU to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
JUN 05 2024
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KENTUCKY PUBLIC
SERVICE COMMISSION

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