

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

A REVIEW OF THE ADEQUACY OF )  
KENTUCKY'S GENERATION CAPACITY ) ADMINISTRATIVE  
AND TRANSMISSION SYSTEM ) CASE NO. 387

PETITION OF  
LOUISVILLE GAS AND ELECTRIC COMPANY  
FOR CONFIDENTIAL PROTECTION

Louisville Gas and Electric Company ("LG&E") petitions the Public Service Commission of Kentucky ("Commission") pursuant to 807 KAR 5:001, Section 13, to grant confidential protection to certain planning-related information it is required to submit in connection with its annual report. In support of this Petition, LG&E states as follows:

1. By Order of December 20, 2001, in *In the Matter of: A Review of the Adequacy of Kentucky's Generation Capacity and Transmission System*, Administrative Case No. 387, the Commission established findings regarding the adequacy of Kentucky's generation capacity and transmission system. In an effort to continue monitoring these issues, however, the Commission ordered Kentucky's six major jurisdictional electric utilities to file annually certain planning-related information, as defined in Appendix G to its Order, and as amended in its subsequent Order dated March 29, 2004. By Order of October 7, 2005, the Commission closed Administrative Case No. 387, but required jurisdictional utilities to continue to submit such information as a supplement to their annual report (such annual report being the FERC Form No. 1).
2. Simultaneous with the filing of this Petition, LG&E is filing its annual report including the planning-related information required by Appendix G to the Commission's

December 20, 2001 Order. LG&E's response to Item No. 14 of Appendix G regarding the need for transmission capacity additions contains confidential information the disclosure of which has a reasonable likelihood of threatening public safety. Additionally, LG&E's response to Item No. 11 of Appendix G regarding scheduled outages or retirements of generating capacity contains confidential commercial information the disclosure of which would cause LG&E competitive injury. Therefore, LG&E's responses to Item Nos. 11 and 14 are being submitted with this request for confidential treatment.

### **Transmission Capacity Additions**

3. Pursuant to Item No. 14 of Appendix G to the Commission's December 20, 2001 Order in Administrative Case No. 387, jurisdictional electric utilities must file annually all planned transmission capacity additions for the 10 years following such filing including such facility's expected in-service date, size and site, as well as, identify the transmission need each addition is intended to address.

4. On June 20, 2005, the Kentucky General Assembly amended the Kentucky Open Records Act to protect from disclosure certain information that has a reasonable likelihood of threatening public safety by exposing a vulnerability "in preventing, protecting against, mitigating, or responding to a terrorist act." KRS 61.878(1)(m). This includes infrastructure records exposing such a vulnerability in the location, configuration, or security of critical systems, including electrical systems. KRS 61.878(1)(m)(1)(f).

5. The information provided in response to Item No. 14 reveals information regarding LG&E's transmission capacity additions and the need that such additions are intended to address. If such information is made available in the public record, individuals seeking to induce public harm will have critical information concerning the present vulnerabilities of

LG&E's transmission system. Knowledge of such vulnerabilities may allow such a person to cause public harm through the disruption of the electric transmission system. Because LG&E's response to Item No. 14 regards planned transmission capacity additions for the next ten years, LG&E requests the information contained in response to Item No. 14 be afforded confidential protection for a period of ten years.

6. The information contained in response to Item No. 14 for which LG&E is seeking confidential treatment is not known outside of LG&E, and it is not disseminated within LG&E except to those employees with a legitimate business need to know and act upon the information.

#### **Scheduled Outages**

7. Pursuant to Item No. 11 of Appendix G to the Commission's December 20, 2001 Order in Administrative Case No. 387, jurisdictional electric utilities also must file annually information concerning scheduled outages or retirements of generating capacity.

8. The Kentucky Open Records Act protects commercial information, generally recognized as confidential or proprietary, if its public disclosure would cause competitive injury to the disclosing entity. KRS 61.878(1)(c). Competitive injury occurs when disclosure of the information would give competitors an unfair business advantage. The information contained in the response to Item No. 11 contains such competitive and proprietary information, and is therefore being submitted with this request for confidential treatment.

9. LG&E's response to Item No. 11 regarding scheduled maintenance outages and retirements of generation capacity contains sensitive commercial information, the disclosure of which would unfairly advantage LG&E's competitors for wholesale power sales. This information would allow competitors of LG&E to know when LG&E's generating plants will be down for maintenance and thus know a crucial input into LG&E's generating costs and need for

power and energy during those periods. The commercial risk of the disclosure of this information is that potential suppliers will be able to manipulate the price of power bid to LG&E in order to maximize their revenues, thereby causing higher prices for LG&E's customers and giving a commercial advantage to LG&E's competitors.

10. Further, disclosure of this information will damage LG&E's competitive position and business interests. The information provided in response to Item No. 11 regarding scheduled outages is highly sensitive information that, if made public, would enable prospective purchasers of LG&E's power supply to manipulate the bidding process to the detriment of LG&E. Thus, disclosure of this information may detrimentally impact LG&E's ability to contract for off-system sales during the same time period. Any impairment of LG&E's ability to obtain fair prices for its power supply will decrease the price LG&E is paid for its power supply. As a result, LG&E will not get the same quality of offers that would be produced by a system protected by the confidentiality employed by unregulated business and LG&E will not be able to compete effectively for off-system sales. Because LG&E's response to Item No. 11 regards scheduled outages or retirements of generating capacity during the current year and the following four years, LG&E requests the information contained in response to Item No. 11 be afforded confidential protection for a period of five years.

11. The information contained in response to Item No. 11 of the Commission's Order for which LG&E is seeking confidential treatment is not known outside of LG&E, and it is not disseminated within LG&E except to those employees with a legitimate business need to know and act upon the information. This information is not on file with the Federal Energy Regulatory Commission, the Securities and Exchange Commission or other public agencies, and is not available from any commercial or other source outside of LG&E.

12. The information contained in response to Item No. 11 and for which LG&E is seeking confidential protection is identical in nature to that provided to the Commission in response to the Commission's requests for information in Case No. 2000-497 and previously in this proceeding. The Commission granted confidential protection to LG&E's planned maintenance schedule for each of LG&E's generating units.

13. The information provided in response to Item Nos. 11 and 14 of Appendix G to the Commission's December 20, 2001 Order demonstrates on its face that it merits confidential protection. If the Commission disagrees, however, it must hold an evidentiary hearing to protect the due process rights of LG&E and supply the Commission with a complete record to enable it to reach a decision with regard to this matter. *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, Ky. App., 642 S.W.2d 591, 592-94 (1982).

14. LG&E does not object to disclosure of the confidential information, pursuant to a protective agreement, to intervenors with a legitimate interest in reviewing the confidential information for the purpose of assisting the Commission's review in this proceeding.

15. In accordance with the provisions of 807 KAR 5:001 Section 13, one copy of LG&E's response to the Commission's request with the confidential information highlighted and ten (10) copies of LG&E's response without the confidential information is herewith filed with the Commission.

**WHEREFORE**, Louisville Gas and Electric Company respectfully requests that the Commission grant confidential protection, or in the alternative, schedule an evidentiary hearing on all factual issues.

Dated: April 1, 2016

Respectfully submitted,



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