

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
LOUISVILLE GAS AND ELECTRIC)	
COMPANY FOR AN ADJUSTMENT OF ITS)	
ELECTRIC AND GAS RATES)	CASE NO. 2018-00295
)	

PETITION OF LOUISVILLE GAS AND ELECTRIC COMPANY
FOR CONFIDENTIAL PROTECTION

Louisville Gas and Electric Company (“LG&E” or the “Company”) hereby petitions the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1) to grant confidential protection for the items described herein, which LG&E seeks to provide in response to Items 76(a), 112, 113, 116, 139(a), and 196 of the Attorney General’s (“AG”) First Set of Data Requests; Items 1(a) and 13(c) of Charter Communications Operating, LLC’s (“Charter”) First Set of Data Requests; Items 17(c), 17(d), 18, 20(a), and 35(e) of Kentucky Industrial Utility Customers, Inc.’s (“KIUC”) First Set of Data Requests; Item 12(b) of Kentucky School Boards Association’s (“KSBA”) First Set of Data Requests; and Item 9 of Louisville/Jefferson County Metro Government’s (“Louisville Metro”) First Set of Data Requests.

Confidential Personal Information – Customer-Identifying Information (KRS 61.878(1)(a))

1. The Kentucky Open Records Act exempts from disclosure certain private and personal information.¹
2. Louisville Metro Item 9 requests various plans, presentations, and studies related to street lighting. LG&E is providing a presentation titled “Lighting Rate Code Consolidation” in

¹ KRS 61.878(1)(a).

response to Louisville Metro Item 9. Portions of this presentation contain customer identifying information, as well as data regarding total number of fixtures and prices. Similarly, KIUC Item 17(c) requests LG&E to provide “any analyses, including internal only reports, that have been prepared by, or are available to the Company that perform an assessment of the Company’s load and energy forecasts.” The presentations provided by LG&E in response include customer names and projections of energy change by major customer account. Lastly, KIUC Item 18 asks LG&E to provide analyses, reports, emails or other writings that discuss the Company’s need to improve its models. One document LG&E provides in response contains the names of numerous customers. The identification of specific customers is personal information that should not be in the public domain. The Commission recently granted confidential protection to similar customer-identifying information.² Because information in the responses to Louisville Metro Item 9 and KIUC Items 17(c) and 18 identify specific customers, LG&E requests through this petition that the Commission protect the confidential portions of the documents from public disclosure.

3. KSBA Item 12(b) requests “a list of the participating pilot school accounts where a new/replacement meter was installed and why the meter was installed.” The response to this KSBA request includes customer names and contract account numbers. As mentioned above, the Commission has previously granted confidential protection to similar information.³ Because information in the response to KSBA Item 12(b) identifies specific customers, LG&E requests

² *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-000221, Order at 1-2 (Ky. PSC July 25, 2013) (granting confidential protection to customer names, account numbers, and usage information); *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, a Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge*, Case No. 2012-0022, Order at 1-2 (Ky. PSC July 16, 2013) (granting confidential protection to “customer-identifying information such as customer names and account numbers”); *see also In the Matter of: Application of Kentucky-American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year*, Case No. 2012-00520, Order at 4 (Ky. PSC Aug. 1, 2014) (granting confidential protection to the response of Staff Item 77, which contained customer-identifying information like names, account numbers, balance history, and the names of customers qualifying for discounted service); *In the Matter of: DPi Teleconnect, LLC v. Bellsouth Telecommunications, Inc. d/b/a AT&T Kentucky*, Case No. 2005-00455, Letter from Stephanie Stumbo to Mary Keyer (Ky. PSC May 29, 2008).

³ *Id.*

through this petition that the Commission protect the entirety of the document from public disclosure.

Confidential or Proprietary Commercial Information (KRS 61.878(1)(c)(1))

4. The Kentucky Open Records Act exempts from disclosure information “generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”⁴

5. AG Item 76(a) asks LG&E to “explain and provide support for the increase in meter reading expenses located on line No. 106 on both referenced pages of Schedule C-2.1.” LG&E is providing several documents, including vendor information regarding bids for contract meter reading (each marked proprietary and confidential) and LG&E summary documents regarding the same. The public disclosure of this information would prejudice each bidding vendor by allowing its competitors to know how it offers and prices its services. Public disclosure would also affect the Company’s ability to obtain the most reasonable prices for such services in the competitive marketplace and the Company’s ability to negotiate rates for services in the future. LG&E requests with this petition that the Commission protect from public disclosure all of the documents provided in response to AG Item 76(a) containing confidential information. The public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent. Thus, the Commission should grant confidential protection to this information.

6. AG Item 112 requests a list of utility peers used in the Willis Towers Watson Target Total Cash Compensation Study. The documents provided in response to AG Item 112 include spreadsheets listing the names of the entities that participated in the 2017 American Gas Association Compensation Survey and the 2017 EAP Data Information Solutions Energy

⁴ KRS 61.878(1)(c)(1).

Technical Craft Clerical Compensation Survey. American Gas Association takes the position that the identities of the entities participating in the survey constitute confidential information. As a participant in the American Gas Association survey, LG&E agreed to keep the identities of the entities confidential. If the spreadsheet is disclosed, the survey administrators may not allow LG&E to participate in future surveys. The EAP survey has not taken a stance on the confidentiality of participating entities, but out of an abundance of caution LG&E is requesting confidential protection for this information. If it turns out that EAP does not deem the identities of the entities to be confidential information, LG&E will withdraw its petition with regard to the EAP survey portion. Thus, LG&E requests that the Commission protect from public disclosure the entirety of the documents provided in response to AG Item 112.

7. AG Item 113 asks LG&E to provide a detailed breakdown for how the \$16,000 cost to train call center reps was derived. The request further asks for “all workpapers in Excel format, with formulas intact and cells unprotected and with all columns and rows accessible.” LG&E is providing a spreadsheet containing intricate pricing details regarding the hiring of a call center representative, including the advertising, interviewing, onboarding, and training costs. This is confidential business information and disclosure of this information could be used by competitors of the Company and the vendors. Moreover, public disclosure of this information would reveal information about LG&E’s business strategies and hiring processes, which could affect LG&E’s ability to negotiate employment contracts in the future. Thus, LG&E seeks confidential protection for the highlighted portions of the spreadsheet provided in response to AG Item 113.

8. AG Item 116 requests information regarding the establishment of job pay midpoints based on external market compensation data. In response, LG&E is providing a spreadsheet that

lists the job codes and job titles that use national general industry compensation data. The Kentucky Open Records Act exempts from disclosure certain private and personal information.⁵ The Kentucky Court of Appeals has stated, “information such as . . . wage rate . . . [is] generally accepted by society as [a] detail in which an individual has at least some expectation of privacy.”⁶ Additionally, the Kentucky Supreme Court has characterized “one’s income” as “intimate” information of a private nature.⁷ The Commission should therefore give confidential treatment to the information in LG&E’s responses to AG Item 116 because disclosing the contents thereof would invade the privacy rights of certain individuals. Individuals are not named in the response to AG Item 116, but job titles and the ability to research national general industry compensation data would allow viewers to deduce the wage rate of individuals. Confidential protection of the entire document is thus necessary because disclosure would constitute an unwarranted invasion of employee’s personal privacy in contravention of KRS 61.878(1)(a).

9. AG Item 139(a) requests, with regard to the LOLP study in the Seelye Testimony, that LG&E provide “a detailed narrative description of how hourly generation output was developed.” In response, LG&E is providing a document developed by the vendor that provides LG&E’s PROSYM software and requests confidential protection of the document in its entirety. The document explains how the software calculates LOLP. The document is proprietary to the vendor and public disclosure could harm the relationship between LG&E and the vendor and others that provide software to LG&E. If the document is disclosed, vendors may be less willing to provide software to LG&E in the future to the detriment of LG&E and its ratepayers. LG&E requests confidential protection of the entire document provided in response to AG Item 139(a).

⁵ KRS 61.878(1)(a).

⁶ *Zink v. Department of Workers’ Claims, Labor Cabinet*, 902 S.W.2d 825, 828 (Ky. App. 1994).

⁷ *Cape Pub’ns, Inc. v. Univ. of Louisville Found., Inc.*, 260 S.W.3d 818, 822 (Ky. 2008).

10. Charter Item 1(a), with regard to the exclusion from LG&E's Rate Pole and Structure Attachment Charges ("PSA") of certain Telecommunications Carriers who executed license agreements with LG&E prior to July 1, 2017, asks LG&E to provide "all agreements with such users related to the rates, terms, and conditions of Attachment" to LG&E Poles. The agreements provided in response to Charter Item 1(a) merit confidential protection because they are confidential business information. A number of the agreements have provisions requiring LG&E to keep the agreement confidential. If potential users seeking to attach their facilities to LG&E's poles had access to these agreements, these potential users could use this information to unfairly negotiate pole attachment agreements. Thus, disclosing the agreements could potentially harm the relationships that LG&E has with existing pole attachment users and could place LG&E at a competitive disadvantage in negotiating future pole attachment agreements with persons not subject to Rate PSA. The Commission recently granted confidential protection to agreements between the Company and third parties on similar grounds.⁸ LG&E requests confidential protection for the entire documents provided in response to Charter Item 1(a).

11. Charter Item 13(c) asks LG&E to "provide all data related to the cost, or anticipated cost, of any planned or contemplated attachment audit of third party attachments on Your poles." In response, LG&E is providing a vendor pricing document that includes unit and total pricing for pole audits. Publicly disclosing these costs for attachment audits would negatively impact the Company and its ratepayers because it may harm the relationship with LG&E and its vendors; as a result, LG&E may have difficulty negotiating favorable costs for pole audits in the future. Thus, the Commission should grant confidential protection for the highlighted portions of the response to Charter Item 13(c).

⁸ *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order Regarding Request for Confidential Treatment to KIUC's Initial Request for Information (Ky. PSC Dec. 2, 2015).

12. KIUC Item 17(d) requests an explanation of the “@Risk” model and a “copy of the analysis used to assess the sales forecast used to develop the projected test year sales, by rate class, in this case.” Similarly, KIUC Item 20(a) asks LG&E to provide a spreadsheet with the “Service Territory-Specific Macroeconomic Forecasts” used in this rate case to project test year sales and demand. In response to both requests, LG&E is providing spreadsheets containing proprietary information obtained from a third party named IHS Markit. Additionally, the spreadsheet KU is providing in response to KIUC Item 17(d) contains customer information that should be granted confidential protection. KIUC Item 18 requests analyses, reports, and other writings that discuss the need to improve LG&E’s models, in response to which KU is providing a document that contains weather projections from a third party vendor named WeatherBell. As players in a competitive market, IHS and WeatherBell do not want confidential technical information or projections they have made to be publically disclosed, or to be used against them in future negotiations with other customers or by their competitors. If this proprietary information is disclosed, IHS, WeatherBell, and other third-party suppliers of the same kinds of information and analyses may be less willing to supply reports to the Company in the future. Diminishing the Company’s ability to receive this information would harm both the Company and their customers. The Commission should grant confidential protection to the highlighted portions of the spreadsheet and document provided in response to KIUC Items 17(d) and 18, and to the entire spreadsheets in response to KIUC Item 20(a).

13. KIUC Item 35(e) requests “a copy of the Company’s business case and/or all other economic and/or other studies that support that Company’s decision to proceed with demolition” of the Company’s retired generating plants. In response, LG&E is providing Investment Committee (“IC”) Proposals. The proposal contains the bids submitted by competitive bidders

and details LG&E's process for selecting a bidder. Confidential protection of the competitive bid information is necessary because disclosure would disrupt the competitive bid process and reveal LG&E's internal analysis of bids to the detriment of the Company and its ratepayers. Thus, LG&E requests confidential protection for the highlighted portions of the proposal provided in response to KIUC 35(e).

Critical Energy Infrastructure Information (KRS 61.878(1)(m))

14. KRS 61.878(1)(m)(1) exempts from disclosure public records that have a reasonable likelihood of threatening public safety by exposing a vulnerability, such as infrastructure records that disclose the "location, configuration, or security of critical systems," or "detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems."

15. AG Item 196 requests LG&E to provide copies of the Companies' Transmission System Improvement Plan ("TSIP") and "any and all cost benefit analyses the Companies may have conducted regarding alternatives to the projects and methods the Companies tend to pursue." LG&E's documents contain a number of Investment Committee ("IC") Proposals, which contemplate installation of lines at specific locations. Some of the IC Proposals contain detailed schematics, line maps, and diagrams for various transmission infrastructure, including substation protection and control equipment and transmission lines, along with the load served by that equipment. Releasing a copy of these documents would thus pose a security concern. The Commission has recently granted confidential protection to similar Critical Energy Infrastructure Information.⁹ In addition to infrastructure concerns, some of the IC Proposals contain sensitive commercial information in the form of contractor names and bidding prices.

⁹ *In the Matter of: Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order Regarding Request for Confidential Treatment to AG's Initial Request for Information (Ky. PSC Dec. 2, 2015).

Such information, if publicly disclosed, is likely to hinder and prejudice the Companies in their competitive bid processes for the same or similar work in the future. Because the Company's responses relate to the security of Critical Energy Infrastructure Information and contain sensitive commercial information, the Company requests that the Commission protect the highlighted portions of LG&E's response to AG Item 196 from public disclosure.

The Confidential Information Subject to this Petition

16. The information 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 the information.

17. LG&E will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors with a legitimate interest in this information and as required by the Commission.

18. If the Commission disagrees with this request for confidential protection, however, it must hold an evidentiary hearing (a) to protect LG&E's due process rights and (b) to supply the Commission with a complete record to enable it to reach a decision with regard to this matter.¹⁰

19. Unless otherwise noted, in compliance with 807 KAR 5:001, Sections 8(3) and 13(2)(e), LG&E is filing with the Commission one paper copy that identifies by highlighting or other means the information for which confidential protection is sought and one electronic copy with the same information obscured. Pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b), confidential treatment is sought for the entire documents produced in response to KSBA Item

¹⁰ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

12(b); AG Items 76(a), 112, 116, and 139(a); Charter Item 1(a); and KIUC Item 20(a). For these documents, as required by 807 KAR 5:001, Section 13(2)(a)(3)(b), written notification that the entire document is confidential is filed in lieu of highlighting.

20. Due to the serious security concerns related to the disclosure of Critical Energy Infrastructure Information, the Company requests that the responses to the highlighted portions of AG Item 196 remain confidential indefinitely. For all other requests for confidential protection, the Company requests that confidential protection be granted for five years due to the sensitive nature of the information at issue.

WHEREFORE, Louisville Gas and Electric Company respectfully requests that the Commission grant confidential protection for the information described herein.

Dated: November 29, 2018

Respectfully submitted,



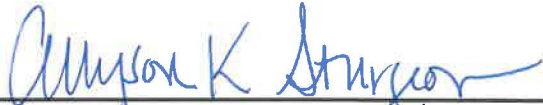
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CERTIFICATE OF COMPLIANCE

This is to certify that Louisville Gas and Electric Company's November 29, 2018 electronic filing of the Petition for Confidential Protection is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on November 29, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original in paper medium of the Petition and an unobscured copy of the material for which confidentiality is sought sealed in an opaque envelope are being hand delivered to the Commission on November 29, 2018.

A handwritten signature in blue ink, reading "Allison K. Sturgeon". The signature is fluid and cursive, with a long horizontal stroke at the end.

Counsel for Louisville Gas and Electric Company