

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

**APPLICATION OF NOLIN RURAL ELECTRIC)
COOPERATIVE CORPORATION FOR AN)
ADJUSTMENT OF EXISTING RATES)**

CASE NO. 2016-00367

MOTION FOR CONFIDENTIAL TREATMENT

Comes now Nolin Rural Electric Cooperative Corporation (“Nolin”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and respectfully moves the Kentucky Public Service Commission (“Commission”) to afford confidential treatment to certain portions of Nolin’s responses to the requests for information propounded in the above-captioned proceeding on March 2, 2017, by Commission Staff and the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (the “AG”), respectively. In support of this motion, Nolin respectfully states as follows:

1. On December 15, 2016, Nolin tendered to the Commission an Application for the adjustment of its rates. On March 2, 2017, the AG propounded his supplemental request for information (“AG’s Supplemental Request”) upon Nolin and Commission Staff propounded its third request for information (“Staff’s Third Request”) upon Nolin. Nolin is filing its responses to these requests for information contemporaneously herewith.

2. Pursuant to Commission regulation and in accordance with law, Nolin requests that the Commission afford confidential treatment to the following proprietary, personal, confidential, sensitive, and commercially valuable information (collectively, the “Confidential Information”):

a. the specific employee identity and cooperative-wide compensation information (employee numbers, job titles, salaries, bonuses, benefits, contributions, compensation adjustments and/or similar information) contained in whole or in part in: (i) the Excel file labeled “Revised Exhibit 1” tendered contemporaneously herewith in response to Item No. 2 of Staff’s Third Request;¹ (ii) the Excel file labeled “Revised Attachment 16A” tendered contemporaneously herewith in response to Item No. 2 of Staff’s Third Request;² (iii) the Excel file labeled “Revised Exhibit 6” tendered contemporaneously herewith in response to Item No. 16 of Staff’s Third Request;³ (iv) the Excel file labeled “Revised Attachment 8A” tendered contemporaneously herewith in response to Item No. 17 of Staff’s Third Request;⁴ (v) the narrative tendered contemporaneously herewith in response to Item No. 18(b) of Staff’s Third Request; (vi) the Excel file labeled “Attachment 8A” tendered contemporaneously herewith in response to Item No. 8 of the AG’s Supplemental Response;⁵ and (vii) the Excel files labeled “Attachment 7A” and

¹ This information (or substantially similar information) was filed in conjunction with Nolin’s Application in this matter; Nolin requested confidential treatment for that filing by Motion for Confidential Treatment dated December 29, 2016.

² This information (or substantially similar information) was filed in response to Item No. 16(a) of Staff’s Second Request for Information; Nolin requested confidential treatment for that filing by Motion for Confidential Treatment dated February 16, 2017.

³ This information (or substantially similar information) was filed in conjunction with Nolin’s Application in this matter; Nolin requested confidential treatment for that filing by Motion for Confidential Treatment dated December 29, 2016.

⁴ This information (or substantially similar information) was filed in response to Item No. 8(c) of Staff’s First Request for Information; Nolin requested confidential treatment for that filing by Motion for Confidential Treatment dated December 29, 2016.

⁵ This information (or substantially similar information) was filed in response to Item No. 11(b) of the AG’s First Request for Information; Nolin requested confidential treatment for that filing by Motion for Confidential Treatment dated February 16, 2017.

“Attachment 7B” tendered contemporaneously herewith in response to Item No. 7 of the AG’s Supplemental Request;⁶ and

b. the specific pricing terms of the Utility Energy Services Contract and related Energy Conservation Opportunity agreements by and between Nolin and the United States of America concerning operations at Fort Knox, which information is contained in “Attachment 15A,” “Attachment 15B,” “Attachment 15C,” “Attachment 15D,” “Attachment 15E,” “Attachment 15F,” “Attachment 15G,” “Attachment 15H,” “Attachment 15I,” and “Attachment 16A” tendered contemporaneously herewith in response to Item Nos. 15 and 16 of the AG’s Supplemental Request.

3. The Confidential Information includes private, cooperative-wide historical compensation and contribution information for all individuals paid by Nolin since 2007. The public disclosure of such sensitive information, which is undoubtedly of a personal nature, would constitute a clearly unwarranted invasion of personal privacy. Moreover, because Nolin competes with numerous other employers with respect to the acquisition and retention of a quality workforce, the public disclosure of the delicate and protected employee compensation information would unfairly harm Nolin’s competitive position in the marketplace.

4. The Confidential Information also includes highly sensitive contractual pricing terms and amounts. This information, if publically disclosed, would provide interested parties and Nolin’s competitors with insight into the specific pricing and contract negotiation strategies employed by Nolin. To avoid such unnecessary detriment, Nolin has identified particularly-sensitive portions of the Agreement and requests that they be afforded confidential treatment.

⁶ This information (or substantially similar information) was filed in response to Item Nos. 11(a) and 11(b) of the AG’s First Request for Information; Nolin requested confidential treatment for that filing by Motion for Confidential Treatment dated February 16, 2017.

5. The Confidential Information is proprietary information that is retained by Nolin on a “need-to-know” basis. The Confidential Information is distributed within Nolin only to those holding select senior leadership positions who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

6. The Kentucky Open Records Act and applicable precedent exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(a); KRS 61.878(1)(c)(1); *Zink v. Department of Workers Claims, Labor Cabinet*, 902 S.W.2d 825 (Ky.App. 1994); *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The public disclosure of the Confidential Information would potentially harm Nolin’s competitive position in the marketplace, to the detriment of Nolin and its customers. Additionally, all of the Confidential Information is publicly unavailable and its confidentiality is critical to Nolin’s effective execution of business decisions and strategy. For these reasons, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

7. Nolin does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable confidentiality and nondisclosure agreement, to intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

8. In accordance with the provisions of 807 KAR 5:001, Nolin is filing under seal with confidentiality denoted one (1) unredacted copy of the Confidential Information. Copies of the redacted versions of the Confidential Information are also being filed by Nolin.

9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Nolin respectfully requests that the Confidential Information be withheld from public disclosure for ten (10) years.

10. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Nolin will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10).

WHEREFORE, on the basis of the foregoing, Nolin respectfully requests that the Commission classify and protect as confidential the specific Confidential Information described herein for a period of ten (10) years.

Dated this 15th day of March, 2017.

Respectfully submitted,



Mark David Goss
M. Evan Buckley
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B-325
Lexington, Kentucky 40504
(859) 368-7740
mdgoss@gosssamfordlaw.com
ebuckley@gosssamfordlaw.com

John J. Scott
JOHN J. SCOTT, PSC
108 E. Poplar St., P.O. Box 389
Elizabethtown, Kentucky 42702
(270) 765-2179
john@johnscottlaw.org

Co-Counsel for Nolin RECC

CERTIFICATE OF SERVICE

Pursuant to 807 KAR 5:001 Section 6, the undersigned certifies that, consistent with 807 KAR 5:001 Section 4(8)(d)(3), a copy of this document has been served via hand-delivery upon the following:

Hon. Angela M. Goad
Hon. Rebecca W. Goodman
Assistant Attorneys General
700 Capital Avenue, Suite 20
Frankfort, KY 40601

This 15th day of March, 2017.



Co-Counsel for Nolin RECC