

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROGER D. SHOCKLEE	)	
	)	
COMPLAINANT	)	
	)	CASE NO.
V.	)	2023-00421
	)	
KENERGY CORP.	)	
	)	
DEFENDANT	)	

ORDER

On March 15, 2024, Kenergy Corp. (Kenergy) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period for Exhibits A and B to its response to Commission Staff’s First Request for Information (Staff’s First Request).

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>

---

<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).

In support of its petition, Kenergy argued the application of KRS 61.878(1)(m), which exempts “[p]ublic records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act . . . .”<sup>4</sup> The exemption is limited to certain types of records, including:

Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems.<sup>5</sup>

A terrorist act is defined as including a criminal act intended to “[d]isrupt a system” identified in the above.<sup>6</sup>

Exhibits A and B to Kenergy’s response to Staff’s First Request are detailed distribution line maps with capacity values assigned to the lines.

Having considered the motion and the material at issue, the Commission finds that Kenergy’s motion should be granted because publicly disclosing the location of detailed distribution infrastructure increases the vulnerability of the system and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(m).

IT IS THEREFORE ORDERED that:

1. Kenergy’s March 15, 2024 motion for confidential treatment is granted.

---

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

<sup>5</sup> KRS 61.878(1)(m)(1)(f).

<sup>6</sup> KRS 61.878(1)(m)(2)(b).

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 an indefinite period or until further order of this Commission.

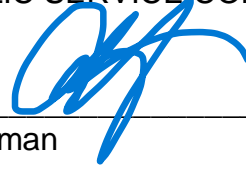
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Kenergy shall inform the Commission and file with the Commission an unredacted copy of the designated material.

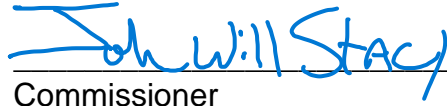
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Kenergy shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Kenergy 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 Kenergy to seek a remedy afforded by law.

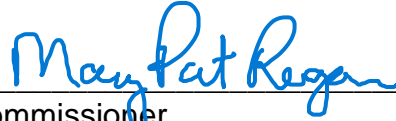
PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

ATTEST:

  
Executive Director

ENTERED  
FEB 06 2025 AH  
KENTUCKY PUBLIC  
SERVICE COMMISSION

Roger D. Shocklee  
666 Barrett Hill Road  
Livermore, KENTUCKY 42352

\*L. Allyson Honaker  
Honaker Law Office, PLLC  
1795 Alysheba Way  
Suite 1203  
Lexington, KENTUCKY 40509

\*Honorable David Edward Spenard  
Strobo Barkley PLLC  
239 South 5th Street  
Ste 917  
Louisville, KENTUCKY 40202

\*Heather Temple  
Honaker Law Office, PLLC  
1795 Alysheba Way  
Suite 1203  
Lexington, KENTUCKY 40509

\*Kenergy Corp.  
6402 Old Corydon Road  
P. O. Box 18  
Henderson, KY 42419

\*Randal A. Strobo  
Strobo Barkley PLLC  
239 South 5th Street  
Ste 917  
Louisville, KENTUCKY 40202