

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GREEN RIVER ELECTRIC CORPORATION'S) CASE NO.
NOTICE OF RATE ADJUSTMENT) 90-152

O R D E R

This matter arising upon petition of Green River Electric Corporation ("Green River") filed September 13, 1990, pursuant to 807 KAR 5:001, Section 7, for confidential protection of specific wage and salary information of employees of Green River contained in a wage and salary study furnished in response to the Commission's data request, on the grounds that disclosure of the information would constitute an unwarranted invasion of the individual employee's personal privacy and would cause Green River competitive injury, and it appearing to this Commission as follows:

On September 6, 1990, as part of an information request, the Commission requested Green River to furnish a copy of a wage and salary study used by Green River to determine executive level compensation. The study includes specific wage and salary information about employees who are identified by name and title. Green River contends that public disclosure of the information is an invasion of the privacy of individual Green River employees. In addition, Green River contends that giving competing employers access to this information would furnish those employers an unfair

advantage over Green River, would provide free access to a valuable management tool paid for by Green River, and could otherwise be detrimental to the operation of Green River.

KRS 61.878(1)(a) exempts from disclosure "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." This provision is intended to protect from public disclosure any information contained in public records that relates the details of an individual's private life when the individual's privacy interest in the information outweighs the public's interest in the information. Board of Education of Fayette County v. Lexington-Fayette Urban County Human Rights Commission, Ky. App., 625 S.W.2d 109, 111 (1981).

In this proceeding, Green River is seeking Commission approval of an increase of its rates for electric service. If approved, such an increase will affect the numerous customers served by Green River, some of whom may elect to intervene in this proceeding. Customers of Green River, therefore, have an interest in seeing that the rates approved by the Commission are "fair, just and reasonable" as required by 278.030(1). Since Green River seeks to recover through its rate structure the compensation and salaries paid to its employees, customers of Green River have a right to know whether the salaries and compensation paid to such employees are reasonable. Therefore, the wages and salaries paid to employees generally and identified only by their title or position is not entitled to protection under the exemption by KRS 61.878 (1)(a). However, the identity of the individuals in those

positions is entitled to such protection and an edited copy of the study obscuring the names of individual employees included in the study should be filed in this proceeding. To the extent that wages and salaries of certain individuals can still be identified from the study even though their identities are obscured, the public's interest in the information outweighs the privacy interest of those employees.

Green River also contends that the information is entitled to protection as confidential commercial information under KRS 61.878(1)(b). In support of its request, Green River contends that competing employers could use this information to their advantage and to Green River's disadvantage.

KRS 61.878(1)(b) exempts information as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. To qualify for the exemption under this section, the information must have competitive value. Information has competitive value when it cannot be obtained from other sources and its disclosure will likely injure the competitive position of the party from whom it was obtained. While compensation paid to a specific individual is not available to the general public, as a general rule average wages or salaries paid in a given industry are generally known to persons in that industry. Therefore, the information does not have competitive value and is not entitled to protection under KRS 61.878(1)(b).

This Commission being otherwise sufficiently advised,


IT IS THEREFORE ORDERED that:


1. The names of individual employees contained in a wage and salary study filed by Green River shall be held and retained by this Commission as confidential, and shall not be open for public inspection.

2. Green River shall, within 10 days of the date of this Order, file edited copies of the wage and salary study furnished in response to the Order of September 6, 1990, obscuring only the names of individual employees identified.

Done at Frankfort, Kentucky, this 16th day of October, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director