

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 October 16, 1990, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the list of names contained in the 1990 "Employee Benefits Survey," filed as an exhibit to the rebuttal testimony of Kenneth Hazelwood, on the grounds that public disclosure will result in substantial injury to Green River, and it appearing to this Commission as follows:

As an exhibit to the rebuttal testimony of Kenneth Hazelwood, Green River has filed its 1990 "Employee Benefits Survey" which contains wage, salary, and benefits information from each company participating in the survey. The information was provided to Green River on condition that it not be publicly disclosed. The information is not customarily disclosed to the public nor is it customarily disclosed to all employees of participating companies. Green River maintains that disclosure of this information would discourage the participating companies from sharing this information with Green River in the future, thereby, depriving Green River of a valuable management tool.

807 KAR 5:001, Section 7, derives its authority from KRS 61.878(1)(b). That section of the statute protects 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. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

While public disclosure of the information may ultimately deprive Green River of a valuable management tool, it is not a valid basis for exempting the information from public disclosure under the Kentucky Open Records Act as codified in KRS 61.872. Therefore, the information should not be protected and the petition should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition for confidential protection of the 1990 "Employee Benefits Survey" be and it hereby is denied.


2. The information sought to be protected from disclosure shall, pursuant to the request in the petition, be returned to Green River, and shall not be considered as evidence in this proceeding.

Done at Frankfort, Kentucky, this 30th day of October, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director