

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CUMBERLAND VALLEY	)	
ELECTRIC, INC. FOR A GENERAL	)	CASE NO.
ADJUSTMENT OF RATES	)	2016-00169

ORDER

On September 8, 2016, Cumberland Valley Electric, Inc. (Cumberland Valley), moved pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, that certain materials filed with the Commission be afforded confidential treatment and not be placed in the public record subject to public inspection. Cumberland Valley has also moved to withdraw and replace two documents previously filed in the public record of this matter and to afford confidential treatment to portions of those two documents.

In support of its motion for confidential treatment, Cumberland Valley requests that certain portions of its application and responses to the requests for information by Commission Staff (Staff) and the Attorney General of the Commonwealth of Kentucky (Attorney General) be held confidential. The information is more particularly described as specific employee identity and compensation information, including names, salaries, and contributions contained in: (1) a wage and salary survey/compensation plan drafted by Intandem, LLC (Intandem Report), included as Exhibit 19 to its application; (2) a chart detailing specific wage information paid to employees during the past five years (Wage Chart) in response to Item No. 11 of the Attorney General's First Request for Information (Attorney General's First Request); (3) the updated Intandem Report in response to Item No. 14(a)

of Staff's Third Request for Information (Staff's Third Request); (4) the Excel file in response to Item 31 of Staff's Third Request; (5) Cumberland Valley's response to Item 5 of the Attorney General's Supplemental Request for Information (Attorney General's Supplemental Request); (6) response to Item 9 of the Attorney General's Supplemental Request; and detailed offer/pricing data in bidding documentation for contracts awarded by Cumberland Valley to Five-C Construction in response to Item 31 of the Attorney General's Supplemental Request.

Cumberland Valley has also moved to withdraw and replace the Intandem Report filed as Exhibit 19 to its application and the Wage Chart in response to Item 11 of the Attorney General's First Request. Cumberland Valley requests confidential treatment for these two documents, to immediately remove the unredacted versions from the public record, and to replace the same with redacted versions.

Cumberland Valley states that the information for which it seeks confidential treatment contains materials that if publicly disclosed would likely result in competitive injury to Cumberland Valley, and that disclosure of employee information would result in an unwarranted invasion of privacy as described in KRS 61.878(a). Therefore, Cumberland Valley claims the materials are generally recognized as confidential and exempt from public disclosure pursuant to KRS 61.878(1)(c) and 807 KAR 5:001, Section 13. Cumberland Valley requests that these materials remain confidential for ten years.

Having carefully considered Cumberland Valley's motions and the material at issue, the Commission finds that:

1. The materials previously filed into the record and contained in Cumberland Valley's Intandem Report filed as Exhibit 19 to its application and the Wage Chart in response to Item 11 of the Attorney General's First Request have been withdrawn from the record and replaced with redacted versions as supplied by Cumberland Valley.

2. The materials contained in Cumberland Valley's Intandem Report filed as Exhibit 19 to its application; Wage Chart filed in response to Item 11 of the Attorney General's First Request; and responses to the Staff's First Request; Attorney General's First Request, and Staff's Third Request as outlined above, meet the criteria for confidential protection as set forth in KRS 61.878(1)(c) and 807 KAR 5:001, Section 13, with the exception of executive officer compensation information. The Commission has previously held that because executive officer salaries are included as an expense in base rate calculations and such salary information is not entitled to confidential protection.

IT IS THEREFORE ORDERED that:

1. Cumberland Valley's Motion to Withdraw and Replace Documents is hereby granted.

2. Cumberland Valley's Motion for Confidential Treatment is granted in part and denied in part.

3. Pursuant to KRS 61.878, except for executive officer compensation information, the information for which Cumberland Valley requests confidential protection shall not be placed in the public record or made available for inspection for ten years, or until further Order of the Commission.

4. The executive officer compensation information for which Cumberland Valley requests confidential protection does not fall within the scope of KRS 61.878, and, therefore, is denied confidential protection.

5. Within 14 days of the date of this Order, Cumberland Valley shall file a revised Application and Responses reflecting as unredacted the information which has been denied confidential treatment in accordance with ordering paragraphs 2 and 3.

6. Use of the materials deemed confidential in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

7. Cumberland Valley shall inform the Commission if the materials deemed confidential become publicly available or no longer qualify for confidential treatment.


8. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order, Cumberland Valley shall have 30 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Cumberland Valley is unable to make such demonstration, the requested materials shall be made available for inspection.

9. The Commission shall not make the requested materials available for inspection for 30 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Cumberland Valley to seek a remedy afforded by law.

By the Commission

ENTERED  
JAN 25 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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Executive Director

\*Barbara Elliott  
Cumberland Valley Electric, Inc.  
Highway 25E  
P. O. Box 440  
Gray, KY 40734

\*Robert Tolliver  
Officer Manager  
Cumberland Valley Electric, Inc.  
Highway 25E  
P. O. Box 440  
Gray, KY 40734

\*M. Evan Buckley  
Goss Samford, PLLC  
2365 Harrodsburg Road, Suite B325  
Lexington, KENTUCKY 40504

\*Rebecca W Goodman  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*James R Adkins  
Jim Adkins Consulting  
1041 Chasewood Way  
Lexington, KENTUCKY 40513-1731

\*Kent Chandler  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Mark David Goss  
Goss Samford, PLLC  
2365 Harrodsburg Road, Suite B325  
Lexington, KENTUCKY 40504

\*Honorable W. Patrick Hauser  
Attorney At Law  
P. O. Box 1900  
Barbourville, KENTUCKY 40906

\*Cumberland Valley Electric, Inc.  
Highway 25E  
P. O. Box 440  
Gray, KY 40734