

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JACKSON	)	
PURCHASE ENERGY CORPORATION FOR A	)	CASE NO.
CERTIFICATE OF PUBLIC CONVENIENCE AND	)	2019-00326
NECESSITY TO CONSTRUCT A NEW	)	
HEADQUARTERS FACILITY	)	

ORDER

On November 25, 2019, Jackson Purchase Energy Corporation (Jackson Purchase Energy), pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, filed a motion requesting confidential treatment for its responses to Commission Staff's First Request for Information (Staff's First Request), Request Nos. 4 and 6, for five years or until the respective properties are individually purchased/sold by Jackson Purchase Energy, whichever occurs first. The designated materials are more particularly described as the commercial appraisal report on its existing headquarters facilities and the commercial appraisal for the proposed site, including the information contained therein.

Jackson Purchase Energy maintains that if the information sought to be treated as confidential is disclosed it will result in unfair commercial advantage to Jackson Purchase Energy's competitors. Jackson Purchase Energy asserts that its response to Staff's First Request, Request No. 4, could affect the ultimate purchase price obtained by Jackson Purchase Energy for the sale of its existing headquarters facilities. Jackson Purchase Energy further states that disclosure of the designated information would provide insights

to its competitors into Jackson Purchase Energy's business operations and financial strategies.

Having carefully considered the motion and the material at issue, the Commission finds that the materials for which Jackson Purchase Energy seeks confidential treatment meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 278.878(1)(c). The Commission finds that this designated information should not be placed in the public record or made available for public inspection until such time as the real estate transactions for each of the respective properties have closed. The Commission further finds that the designated information would give potential bidders and competitors a business advantage in the course of ongoing and future negotiations to procure and sell real estate.<sup>1</sup>

Further, Jackson Purchase Energy redacted portions of its response to Request No. 8. Specifically, this information has been identified as the amount of borrowing associated with the proposed project. Jackson Purchase Energy did not make a request in its November 25, 2019 motion for confidential treatment of the material redacted therein pursuant to 807 KAR 5:001, Section 13(2)(a). Jackson Purchase Energy also did not establish specific grounds pursuant to KRS 61.878 for classification of the material redacted therein nor did it state the period for the material to be treated as confidential pursuant to 807 KAR 5:001, Section 13(2)(a)(1) and (2). The information redacted in

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<sup>1</sup> Jackson Purchase Energy when citing to KRS 61.878(1)(c)(1) and arguing that disclosure of the designated materials would result in unfair commercial advantage should have identified more specifically the competitors to whom it was referring. While Jackson Purchase Energy did assert in its motion that its response to Staff's First Request, Request No. 4, could affect the ultimate purchase price obtained by Jackson Purchase Energy for the sale of its existing headquarters facilities, it did not extend the same argument to its response to Staff's First Request, Request No. 6, as it pertained to the purchase price and/or the purchase of the proposed property. Jackson Purchase Energy should have argued that potential bidders were competitors to Jackson Purchase Energy as contemplated by KRS 61.878(1)(c)(1), and, therefore, the appraisals should be granted confidential treatment.

Jackson Purchase Energy's response to Request No. 8 does not appear in the commercial appraisal report on its existing headquarters facilities nor does it appear in the commercial appraisal for the proposed site. The Commission also denied Jackson Purchase Energy's September 13, 2019 motion for confidential treatment of the amount of borrowing associated with the project in its October 1, 2019 Order. The Commission finds, therefore, that this material does not meet the criteria for confidential treatment and is not exempted from public disclosure pursuant to KRS 61.878 and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. Jackson Purchase Energy's motion for confidential treatment for its responses to Staff's First Request, Request Nos. 4 and 6 is granted.
2. Jackson Purchase Energy's response to Request No. 8 is not granted confidential treatment.
3. The designated materials in Jackson Purchase Energy's responses to Staff's First Request , Request Nos. 4 and 6, shall not be placed in the public record or made available for public inspection until such time as the real estate transactions for each of the respective properties have closed. Within five days from each of the dates of the closing of the real estate transactions, Jackson Purchase Energy shall submit written notification to the Commission, advising either that the information discussed herein no longer qualifies for confidential treatment or requesting that the information continue to be treated as confidential and demonstrating that the information still falls within the exclusions established in KRS 61.878.

4. If Jackson Purchase Energy objects to the Commission's determination that certain information not be granted confidential treatment or to the time limits that the Commission has placed on the confidential treatment for the requested information, it must seek either rehearing pursuant to KRS 278.400 or judicial review of this Order pursuant to KRS 278.410. Failure to exercise either of these statutory rights will be deemed as agreement with the Commission's determination of which materials should be granted confidential treatment or of the period for which the materials are afforded confidential treatment. Jackson Purchase Energy will be required to demonstrate a change in circumstances in any subsequent motion for continued confidential treatment of materials in question after the end of the period set forth in ordering paragraph 3 of this Order.

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

6. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, then Jackson Purchase Energy 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 Jackson Purchase Energy is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

7. 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 Jackson Purchase Energy to seek a remedy afforded by law.

8. Within 20 days of the date of this Order, Jackson Purchase Energy shall file a revised version of the response to Request No. 8 for which confidential protection was denied, reflecting as unredacted the information that has been denied confidential treatment.

9. The material for which Jackson Purchase Energy's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of this Order in order to allow Jackson Purchase Energy to seek a remedy afforded by law.

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By the Commission

ENTERED  
JAN 14 2020  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

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