

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF FARMERS)	
RURAL ELECTRIC COOPERATIVE)	CASE NO.
CORPORATION FOR AN INCREASE IN)	2016-00365
RETAIL RATES)	

MOTION FOR CONFIDENTIAL TREATMENT

Comes now Farmers Rural Electric Cooperative Corporation (“Farmers RECC”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and respectfully moves the Kentucky Public Service Commission (“Commission”) to afford confidential treatment to a portion of Farmers RECC’s Responses to Commission Staff’s Third Request for Information. In support of its request, Farmers RECC states as follows:

1. On November 15, 2016, Farmers RECC tendered to the Commission an Application for the adjustment of its rates. On January 31, 2017, Commission Staff propounded its Third Request for Information upon Farmers RECC. Request No. 1 of Commission Staff’s Third Request for Information states as follows:

1. Refer to the application, Exhibit F, Schedule C, Adjustment to Payroll Expense and Schedule D, Adjustment to Payroll Related Expenses. Using the attached spreadsheets as an example, provide this response in the Excel workbook provided electronically by Commission counsel, with all columns and rows unprotected and accessible. Include the following actual full-year salary and benefit information for each employee, identified by employee number and job title, for the years 2011 through 2016 (in gross dollars – not hourly or monthly rates).

2. Request No. 4 of Commission Staff's Third Request for Information states as follows:

4. Provide copies of all Farmers pension plans, including but not limited to, defined benefit, defined contribution/401(k) or similar plan, and post-employment retirement.

3. Request No. 22 of Commission Staff's Third Request for Information states as follows:

22. Refer to Farmers' response to Staff's Second Request, Item 19.a. Provide the source materials relied upon in making the recommendations and explain how each supports the annual increases between 2010 and 2015.

4. Contemporaneous with the filing of this Motion, Farmers RECC is tendering documentation responsive to Commission Staff's Requests No. 1, 4 and 22 (the "Confidential Information"). The Confidential Information is proprietary information that is retained by Farmers RECC on a "need-to-know" basis. The Confidential Information is distributed within Farmers RECC only to the Chief Executive Officer, Senior Management and the Board, who must have access for business reasons, and it is generally recognized as confidential and proprietary in the energy industry and in business generally.

5. The Kentucky Open Records Act and applicable precedent exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(a); KRS 61.878(1)(c)(1); *Zink v. Department of Workers Claims, Labor Cabinet*, 902 S.W.2d 825 (Ky. App. 1994); *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The Confidential Information includes information regarding job titles and historical compensation amounts for years other than the test year for Farmers' RECC employees. Disclosure of this information would make it very easy for someone to determine who receives what compensation based on the job title

or employee designation number. Salary and benefit information is personal and private information and should not be in the public realm. Additionally, public disclosure of these sensitive documents would unnecessarily provide interested parties and Farmers RECC's competitors with access to exclusive information regarding employee compensation. By knowing what Farmers RECC compensates each of its employees, it would be very easy for other utilities to attempt to poach Farmers RECC's workforce and management. Such public disclosure could unfairly harm Farmers RECC's competitive position in the marketplace for utility management and a skilled workforce, to the detriment of Farmers RECC and its customers. Moreover, the Confidential Information includes materials that were prepared exclusively for the Farmers RECC Board and that, if disclosed, would reveal the basis for the Board's internal deliberations. Disclosure of such information would have a chilling effect on the Board to consider available information and engage in candid discussions regarding compensation issues. For these reasons, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment. Indeed, the Commission has already recognized the confidential nature of the Confidential Information and has afforded confidential treatment to similar compensation and wage documents in prior proceedings.¹

6. In accordance with the provisions of 807 KAR 5:001, Farmers RECC is filing, in paper medium only and under seal with the Confidential Information denoted, one (1) unredacted copy of its Responses to Request Nos. 1, 4 and 22 of Commission Staff's Third Request for Information. Farmers RECC is also providing a paper copy of the information with the Confidential Information redacted.

¹ *In the Matter of the Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Order, Case No. 2014-00371 (Ky. P.S.C., Jan. 29, 2016); *In the Matter of the Application of Water Service Corporation of Kentucky for a General Adjustment of Rates*, Order, Case No. 2015-00382 (Ky. P.S.C. Apr. 5, 2016).

7. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Farmers RECC respectfully requests that the Confidential Information be withheld from public disclosure indefinitely.

8. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Farmers RECC will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10).

WHEREFORE, on the basis of the foregoing, Farmers RECC respectfully requests that the Commission classify and protect as confidential the specific Confidential Information described herein indefinitely.

Dated this 13th day of February, 2017.

Respectfully submitted,



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