

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LICKING	)	
VALLEY RURAL ELECTRIC COOPERATIVE	)	
CORPORATION FOR A GENERAL	)	CASE NO.
ADJUSTMENT OF RATES PURSUANT TO	)	2020-00338
STREAMLINED PROCEDURE PILOT PROGRAM	)	
ESTABLISHED IN CASE NO. 2018-00407	)	

ORDER

On February 11, 2021, Licking Valley Rural Electric Cooperative Corporation (Licking Valley RECC) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for ten years for information provided in response to Commission Staff's First Request for Information (Staff's First Request), Item 7.

In support of its motion, Licking Valley RECC argued that the confidentially filed information is exempt from public disclosure under two provisions of KRS 61.878. Under KRS 61.878(1)(a), documents are exempt if they are "[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." In addition, KRS 61.878(1)(c)(1) exempts from public disclosure "[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records."

The document that Licking Valley RECC sought confidential treatment for is the entirety of a wage and salary report generated by third party Intandem, LLC (Intandem) containing analysis and national and regional compensation data for comparison. The report includes non-executive employee compensation information by title, with no names disclosed. Licking Valley RECC argued that its employees have a privacy interest under KRS 61.878(1)(a) in their wage and the wage, salary, and benefits information. Licking Valley RECC also argued that the entire report, if disclosed, could provide individuals seeking future employment with an unreasonable commercial advantage by knowing its pay scale and benefits costs. Likewise, this information could present a commercial advantage to other employers located in Licking Valley RECC's general service area who might compete with Licking Valley RECC for similarly skilled current and prospective employees.

Having considered the motion and the material at issue, the Commission finds that Licking Valley RECC's motion for confidential treatment is granted. Intandem's report contains proprietary analysis and data intended for confidential use. Public disclosure could jeopardize Licking Valley RECC's ability to obtain this type of information in the future and might represent a copyright law violation.<sup>1</sup> Release of this report would also be detrimental to Licking Valley RECC's future negotiations with current and prospective employees and could be used by competitors to compete for employees.

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<sup>1</sup> See Case No. 2020-00131, *Electronic Application of Meade County Rural Electric Cooperative Corporation for an Adjustment of Rates* (Ky. PSC Jan. 25, 2022), Order at 3.

The designated material therefore meets the criteria for confidential treatment and is exempted from public disclosure for ten years pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Licking Valley RECC's motion for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for ten years or until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).
4. Licking Valley RECC shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Licking Valley RECC shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Licking Valley RECC is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.
6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no

longer qualifies for confidential treatment in order to allow Licking Valley RECC to seek a remedy afforded by law.

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By the Commission

ENTERED  
FEB 25 2022 <sup>rCS</sup>  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2020-00338

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