

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENERGY)	
CORP. FOR A GENERAL ADJUSTMENT OF)	CASE NO.
RATES PURSUANT TO STREAMLINED)	2021-00066
PROCEDURE PILOT PROGRAM ESTABLISHED)	
IN CASE NO. 2018-00407)	

ORDER

On March 11, 2021, Kenergy Corp. (Kenergy) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period for Exhibits BJ-1, BJ-2, and BJ-3 to the testimony of Blair Johanson.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records “be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884.”¹ Kenergy sought the application of KRS 61.878(1)(c)(1), which exempts records that are “[g]enerally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.” Exceptions to the free and open examination of public records contained in KRS 61.878 shall be strictly

¹ KRS 61.872(1).

construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

The exhibits at issue consist of sections of a wage and salary study compiled by Blair Johanson. In support of their petition, Kenergy argued that because Kenergy competes for employees with other utilities and other industries, public disclosure of this information would place them at an unfair disadvantage versus competitors with regards to compensation and retention of employees.

Having considered the petition and the material at issue, the Commission finds that the petition is granted. Disclosure of this study would disadvantage Kenergy with regards to competition for employees. The Commission has previously granted confidential treatment for such compensation studies.⁴ The designated material is generally recognized as confidential or proprietary and would permit an unfair commercial advantage to Kenergy's competitors if publicly disclosed. It therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Kenergy's petition for confidential treatment is granted.

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

⁴ Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Dec. 7, 2021), Order at 2.

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 an indefinite period or until further Order of this Commission.

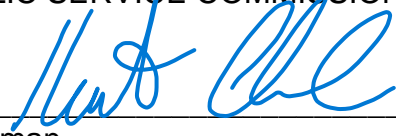
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. Kenergy 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, Kenergy 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 Kenergy 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 Kenergy to seek a remedy afforded by law.

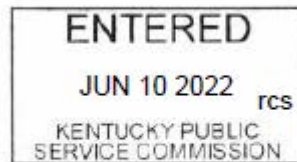
PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman

Commissioner



ATTEST:



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