

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
KENTUCKY UTILITIES COMPANY, NOLIN)	
RURAL ELECTRIC COOPERATIVE)	
CORPORATION, AND EAST KENTUCKY POWER)	
COOPERATIVE, INC. FOR APPROVAL OF AN)	CASE NO.
AGREEMENT MODIFYING AN EXISTING)	2021-00462
TERRITORIAL BOUNDARY MAP AND)	
ESTABLISHING THE RETAIL ELECTRIC)	
SUPPLIER FOR GLENDALE MEGASITE IN)	
HARDIN COUNTY, KENTUCKY)	

ORDER

On January 21, 2022, Kentucky Utilities (KU) 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 information redacted from a document provided in response to Commission Staff's Second Request for Information (Staff's Second Request), Item 1.

In support of its petition, KU argued that this information is exempt from public disclosure under KRS 61.878(1)(c)(1), which exempts "[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."

This matter arose from Ford Motor Company's September 27, 2021 announcement that it would be constructing an automotive battery manufacturing facility in Hardin County, Kentucky at a location known as the Glendale Megasite. KU and Nolin

Rural Electric Cooperative Corporation (Nolin RECC) disputed which electric utility territory the Glendale Megasite was located within and therefore which utility was entitled to serve the site. KU and Nolin RECC entered into a settlement agreement, which included KU compensating Nolin RECC in exchange for Nolin RECC modifying the existing territorial boundaries map and foregoing Nolin RECC's right to provide electric service in the territory.

Staff's Second Request, Item 1, sought, in part, an explanation of how the settlement sum and expected revenue were determined. KU's response included a spreadsheet containing forecasts of demand and rates from the Glendale Megasite special contract, yet to be negotiated. KU sought to keep the redacted predictions of demand and rate data confidential. KU asserted that public disclosure of this information could disadvantage KU by providing the customer and third parties with KU's expectations regarding the special contract. Potential customers could use KU's expectations regarding the special contract as a benchmark to gain an unfair competitive advantage in negotiating future contracts with KU. Disclosure could also result in KU negotiating a less advantageous special contract for the Glendale Megasite, which would disadvantage KU and KU's other customers. KU also argued that disclosure could harm the Glendale Megasite by disclosing to third parties KU's expectations as to the customer's demand and usage. Although the demand and usage information in the attachment is preliminary, it includes important details of KU's understanding of the project. Disclosure could harm the customer by disclosing confidential information about the customer's needs.

Having considered the petition and the material at issue, the Commission finds that KU's petition for confidential treatment is granted. The redacted forecasts of special

contract demand and rates are generally recognized as confidential or proprietary, and if openly disclosed would permit an unfair commercial advantage, to the detriment of KU's customers. Projected special contract rates could be used by the Glendale Megasite or future parties to special contracts in the negotiation process to KU's customers' detriment. The Commission previously granted confidential treatment to special contract projections used to determine a territorial dispute settlement sum.¹ Redacted figures from the spreadsheet provided in response to Staff's Second Request, Item 1 therefore meet the criteria for confidential treatment and are exempted from public disclosure for an indefinite period pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. KU's petition 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 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. KU shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

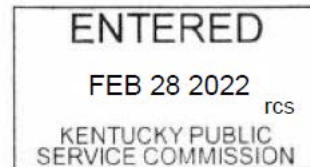
¹ Case No. 2019-00370, *Electronic Joint Application of Louisville Gas and Electric Company, Meade County Rural Electric Cooperative Corporation, and Big Rivers Electric Corporation for (1) Approval of an Agreement Modifying an Existing Territorial Boundary Map and (2) Establishing Meade County Rural Electric Cooperative Corporation as the Retail Electrical Supplier for Nucor Corporation's Proposed Steel Plate Mill in Buttermilk Falls Industrial Park in Meade County, Kentucky* (Ky. PSC Mar. 9, 2020 (Nov. 18, 2019 Motion)), Order 2-3.

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, KU 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 KU 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 KU to seek a remedy afforded by law.

By the Commission

Commissioner Marianne Butler did not participate in the deliberations or decision concerning this case.



ATTEST:


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