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December 1, 2009

Mr. James W. Barnett  
Sheehan, Barnett, Dean, Pennington & Little, P.S.C.  
114 South Fourth Street  
Danville, KY 40422

Re: Case No. 2009-00143  
Inter-County Energy Cooperative, Request for Confidentiality

Dear Mr. Barnett:

On November 25, 2009, the Public Service Commission received Inter-County Energy Cooperative's response to Commission Staff's third data request in Case No. 2009-00143.

Attached to Inter-County's response was a document labeled "Exhibit A," which is described as a list of the "materials that would be involved with the installation" of its proposed advanced metering equipment, as well as the cost information that was redacted from the previously filed Exhibit C to Inter-County's September 22, 2009 data response.

Inter-County's November 25, 2009 response includes a request to the Commission to honor "confidentiality agreements" entered into between Inter-County and its electric meter vendors, Aclara and Landis+Gyr Systems. While this appears to be a request for confidentiality, it does not conform to the requirements of 807 KAR 5:001, Section 7(2), which provides:

(a) Any person requesting confidential treatment of any material shall file a petition which:

1. Sets forth specific grounds pursuant to KRS 61.870 et seq., the Kentucky Open Records Act, upon which the commission should classify that material as confidential; and

2. Attaches one (1) copy of the material which identifies by underscoring, highlighting with transparent ink, or other reasonable means only those portions which unless deleted would disclose confidential material. Text pages or portions thereof which do not contain confidential material shall not be included in this identification.

(b) The petition, one (1) copy of the material which is identified by underscoring or highlighting, and ten (10) copies of the material with those portions obscured for which confidentiality is sought, shall be filed with the commission.

(c) The petition and a copy of the material, with only those portions for which confidentiality is sought obscured, shall be served on all parties. The petition shall contain a certificate of service on all parties.

(d) The burden of proof to show that the material falls within the exclusions from disclosure requirements enumerated in KRS 61.870 et seq., shall be upon the person requesting confidential treatment.

(e) Any person may respond to the petition for confidential treatment within ten (10) days after it is filed with the commission.

Inter-County's request does not set out specific grounds pursuant to KRS 61.870 et seq., the Kentucky Open Records Act, upon which the Commission should classify the material in Exhibit A as confidential. Nor did Inter-County attach a highlighted/underscored version of Exhibit A or a redacted version of the exhibit.

In order to correct the deficiencies in its petition for confidentiality, Inter-County must submit a revised petition for confidentiality in conformity with 807 KAR 5:001, Section 7(2) by December 21, 2009.

Pursuant to 807 KAR 5:001, Section 7(3), Exhibit A will be temporarily accorded confidential treatment pending receipt of the revised petition or the expiration of the 20-day period outlined herein, at which time the material in Exhibit A will be subject to the provisions of 807 KAR 5:001, Section 7(4).

If you have any further questions regarding this matter, please contact Staff Attorney Rick Bertelson at (502) 564-3940.

Sincerely,  
  
Jeff Derouen  
Executive Director

RB:ew