

Rural Electric Cooperative Corporation

A Touchstone Energy® Cooperative 

February 16, 2017

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PUBLIC SERVICE  
COMMISSION

MS TALINA MATTHEWS  
EXECUTIVE DIRECTOR  
PUBLIC SERVICE COMMISSION  
PO BOX 615  
FRANKFORT KY 40602

RE: PSC CASE NO. 2016-00367

Dear Ms. Matthews:

Please find enclosed an original and ten (10) copies of Nolin RECC's responses to the Commission Staff's Second Data Request in the above referenced case and an original and ten (10) copies of Nolin RECC's responses to the Attorney General's Initial Data Request. We have also included the Request for Confidentiality and have designated any confidential material.

If you have any questions please call me at 270.765.6153.

Sincerely,

A handwritten signature in cursive script that reads "Michael L. Miller".

Michael L. Miller  
President & CEO

afc

Enclosures

CC: Andy Beshear, Attorney General

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

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FEB 16 2017

PUBLIC SERVICE  
COMMISSION

**IN THE MATTER OF:**

**APPLICATION OF NOLIN RURAL ELECTRIC )**  
**COOPERATIVE CORPORATION FOR AN )** **CASE NO. 2016-00367**  
**ADJUSTMENT OF EXISTING RATES )**

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**MOTION FOR CONFIDENTIAL TREATMENT**

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Comes now Nolin Rural Electric Cooperative Corporation (“Nolin”), 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 certain portions of Nolin’s responses to the requests for information propounded in the above-captioned proceeding on January 24, 2017, by Commission Staff and the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (the “AG”), respectively. In support of this motion, Nolin respectfully states as follows:

1. On December 15, 2016, Nolin tendered to the Commission an Application for the adjustment of its rates. On January 24, 2017, the AG propounded his first request for information (“AG’s First Request”) upon Nolin and Commission Staff propounded its second request for information (“Staff’s Second Request”) upon Nolin.<sup>1</sup> Nolin is filing its responses to these requests for information contemporaneously herewith.

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<sup>1</sup> Commission Staff revised its Second Request to include inadvertently omitted spreadsheets by filing made January 25, 2017.

2. Pursuant to Commission regulation and in accordance with law, Nolin requests that the Commission afford confidential treatment to the following proprietary, personal, confidential, sensitive, and commercially valuable information (collectively, the “Confidential Information”):

a. the specific employee identity and compensation information (employee numbers, job titles, salaries, bonuses, benefits, contributions, and similar information) contained in: (i) the Excel file tendered contemporaneously herewith in response to Item No. 16 of Staff’s Second Request; and (ii) the attachments tendered contemporaneously herewith in response to Item Nos. 11(a) and 11(b) of the AG’s First Request; and

b. the computations and example charges/bid costs contained on three (3) specific pages within the privatization contract entered into by and between Nolin and the United States of America concerning operations at Fort Knox (the “Agreement”), a copy of which is tendered contemporaneously herewith in response to Item No. 36(c) of the AG’s First Request.

3. The Confidential Information includes private, employee-specific historical compensation and contribution information for all individuals employed by Nolin since 2011. The public disclosure of such sensitive information, which is undoubtedly of a personal nature, would constitute a clearly unwarranted invasion of personal privacy. Moreover, because Nolin competes with numerous other employers with respect to the acquisition and retention of a quality workforce, the public disclosure of the delicate and protected employee compensation information would unfairly harm Nolin’s competitive position in the marketplace.

4. The Confidential Information also includes highly sensitive contractual pricing terms and amounts. This information, if publically disclosed, would provide interested parties and Nolin’s competitors with insight into the specific pricing and contract negotiation strategies

employed by Nolin. To avoid such unnecessary detriment, Nolin has identified particularly-sensitive portions of the Agreement and requests that they be afforded confidential treatment.

5. The Confidential Information is proprietary information that is retained by Nolin on a “need-to-know” basis. The Confidential Information is distributed within Nolin only to those holding select senior leadership positions who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

6. 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 public disclosure of the Confidential Information would potentially harm Nolin’s competitive position in the marketplace, to the detriment of Nolin and its customers. Additionally, all of the Confidential Information is publicly unavailable and its confidentiality is critical to Nolin’s effective execution of business decisions and strategy. For these reasons, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

7. Nolin does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable confidentiality and nondisclosure agreement, to intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

8. In accordance with the provisions of 807 KAR 5:001, Nolin is filing, in the requested USB flash drive medium only and under seal with its confidentiality denoted, one (1) unredacted copy of the Excel file responsive to Item No. 16 of Staff’s Second Request. Additionally, Nolin is filing, in paper medium and under seal with the Confidential Information

denoted, one (1) unredacted copy of its response to Item Nos. 11(a), 11(b), and 36(c) of the AG's First Request. Copies of the redacted version of these documents are also being filed by Nolin.


9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Nolin respectfully requests that the Confidential Information be withheld from public disclosure for ten (10) years.

10. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Nolin 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, Nolin respectfully requests that the Commission classify and protect as confidential the specific Confidential Information described herein for a period of ten (10) years.

Dated this 16<sup>th</sup> day of February, 2017.

Respectfully submitted,

  
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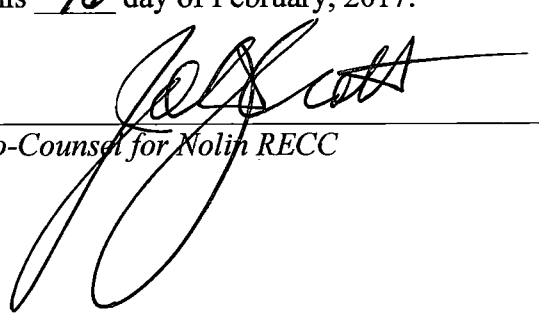
*Co-Counsel for Nolin RECC*

**CERTIFICATE OF SERVICE**

Pursuant to 807 KAR 5:001 Section 6, the undersigned certifies that, consistent with 807 KAR 5:001 Section 4(8)(d)(3), a copy of this document has been electronically served upon the following:

Hon. Angela M. Goad  
Hon. Rebecca W. Goodman  
Angela.Goad@ky.gov  
Rebecca.Goodman@ky.gov

This 16<sup>th</sup> day of February, 2017.

  
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*Co-Counsel for Nolin RECC*