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

**IN THE MATTER OF:**

**APPLICATION OF CUMBERLAND VALLEY )**  
**ELECTRIC, INC. FOR COMMISSION APPROVAL )**  
**FOR A CERTIFICATE OF PUBLIC CONVENIENCE )**  
**AND NECESSITY TO INSTALL AN ADVANCED )**  
**METERING INFRASTRUCTURE (AMI) SYSTEM )**  
**PURSUANT TO 807 KAR 5:001 AND KRS 278.020 )**

**Case No.**  
**2018-00056**

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**MOTION FOR CONFIDENTIAL TREATMENT**

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Comes now Cumberland Valley Electric, Inc. (“Cumberland Valley”), by counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Commission afford confidential treatment to certain portions of Cumberland Valley’s Response to Commission Staff’s First Post-Hearing Request for Information, respectfully states as follows:

1. Cumberland Valley’s Application in this matter requests that the Commission consider and approve a Certificate of Public Convenience and Necessity for the installation of a new Advanced Metering Infrastructure (“AMI”) system to serve its membership. Cumberland Valley believes, and the record of this case reflects, that the cooperative’s proposed AMI project is a reasonable least-cost solution that will benefit the cooperative and improve the service it provides throughout its territory.

2. On May 30, 2018, the Commission conducted a hearing in this matter to examine Cumberland Valley’s proposed AMI project. Pursuant to an Order of that same date, Commission Staff propounded its First Post-Hearing Request for Information (“Post-Hearing Data Request”)

upon Cumberland Valley on June 1, 2018. Contemporaneously with the filing of this Motion, Cumberland Valley is tendering its Response to the Post-Hearing Data Request.

3. In response to Item 3 of the Post-Hearing Data Request, Cumberland Valley is providing a complete copy of the contractual document related to the AMI project—the Master Purchase and Services Agreement (the “Agreement”) between Cumberland Valley and National Rural Telecommunications Cooperative (“NRTC”). A portion of this Agreement (Exhibit A, concerning component and total pricing) is already a part of the record of this case<sup>1</sup> and was granted confidential treatment (in part) by Order entered herein May 9, 2018. By this motion, Cumberland Valley seeks confidential treatment for other commercially-sensitive terms and conditions contained within the entire Agreement.

4. KRS 61.878(1)(c)(1) protects “records 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.” Moreover, the Kentucky Supreme Court has stated, “information concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary’” *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The Kentucky Open Records Act and applicable Commission precedent renders certain portions of the Agreement appropriate for protection from public disclosure.<sup>2</sup>

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<sup>1</sup> See Cumberland Valley’s Second Revised Motion for Confidential Treatment and Motion to Replace Certain Pages of Original Application (filed April 2, 2018).

<sup>2</sup> See KRS 61.878(1)(c); see also, e.g., Case No. 2016-00052, *In the Matter of the Filing of Seven (7) Special Industrial Contracts by Atmos Energy Corporation*, Order (Ky. P.S.C. July 27, 2017); Case No. 2016-00269, *In the Matter of: Application of East Kentucky Power Cooperative, Inc. for Issuance of a Certificate of Public Convenience and Necessity, Approval of Certain Assumption of Evidences of Indebtedness and Establishment of a Community Solar Tariff*, Order at pp. 2-3 (Ky. P.S.C. Nov. 30, 2016).

5. The Agreement includes information which is proprietary, confidential, sensitive, and commercially valuable. In addition to pricing information, the Agreement details the rights and obligations of the parties and undoubtedly reflects bargained-for commercial contract terms. These terms, of course, are critical to Cumberland Valley's effective execution of business decisions and strategy and are otherwise publicly unavailable.

6. The confidential information contained in the Agreement, if publicly released, would arm Cumberland Valley's competitors and potential future vendors with detailed knowledge about the parties' private commercial arrangement; this information could then be used to the financial detriment of Cumberland Valley and its ratepayers, as it would be impossible for the cooperative to negotiate and contract at arms-length and on equal footing. This risk is particularly concerning if the Commission does not ultimately approve Cumberland Valley's requested relief, but lasting impacts are likely if Cumberland Valley's counterparties cannot expect sensitive contractual details to remain private. Put simply, disclosure of the confidential information could result in unnecessarily higher costs paid by Cumberland Valley, translating into higher rates paid by Cumberland Valley's members, and thus confidential protection is requested and warranted.

7. Importantly, and as recognized by this Commission,<sup>3</sup> no party has requested intervention in this matter and no public comments have been received such that this case does not currently appear to be a matter of great public concern. Thus, in balancing the harm from disclosure with "the effect of protecting a given document from scrutiny by the public and potential intervenors," the detailed Agreement terms and conditions meet the criteria for confidential treatment.

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<sup>3</sup> See Order at p. 4 (Ky. P.S.C. May 9, 2018).

8. The confidential information is proprietary information that is retained by Cumberland Valley on a “need-to-know” basis. The confidential information is distributed within Cumberland Valley only to those employees and agents who must have access for business reasons, and is generally recognized as confidential and proprietary.

9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Cumberland Valley is filing, separately and under seal, one (1) unredacted copy of the Agreement with the confidential information highlighted. Redacted versions of the Agreement have also been tendered to the Commission as part of Cumberland Valley’s Response to the Post-Hearing Data Request.

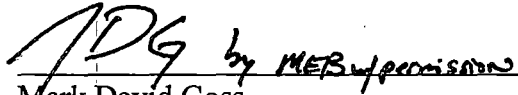
10. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Cumberland Valley respectfully requests that the confidential information be withheld from public disclosure for a period of ten (10) years. The public disclosure of the confidential information prior to the expiration of this time period will result in a competitive disadvantage to Cumberland Valley and could be detrimental to future negotiations with vendors and competitors.

11. If, and to the extent, the confidential information becomes publicly available or otherwise no longer warrants confidential treatment, Cumberland Valley 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, Cumberland Valley 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 21<sup>st</sup> day of June, 2018.

Respectfully submitted,

Handwritten signature of Mark David Goss, with the initials "MDG" and "by MEB" written in cursive.

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