



& Poor's and Moody's, that were obtained from the third parties through a paid subscription service.

DOD/FEA requested confidential protection for the designated material in accordance with KRS 61.878(1)(c)(1), which prohibits public disclosure of confidential or proprietary information that, if publicly disclosed, could result in competitive harm.

As a basis for its motion, DOD/FEA argued that the designated material contained the confidential and proprietary information developed by third parties that provide industry data and research through subscription services, and is not made available to the public without subscription. DOD/FEA asserted that, if the designated material was publicly disclosed, it would result in commercial disadvantage to DOD/FEA because experts would be unwilling to fully and candidly assist DOD/FEA due to concerns that confidential and proprietary information otherwise exempt from public disclosure would be publicly disclosed.

Having considered the motion and the designated material at issue, the Commission finds that designated material are confidential and proprietary because it consists of information developed by and exclusive to third parties, and that public disclosure could result in public harm because the designated material is made available only on a subscription basis. Thus, the designated material meets the criteria for confidential treatment pursuant to KRS 61.787(1)(c)(1) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. DOD/FEA's April 1, 2021 motion for confidential treatment is granted.

2. The designated material contained 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).

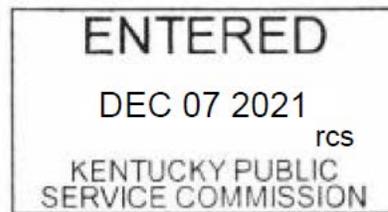
4. DOD/FEA shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

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, DOD/FEA 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 DOD/FEA 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 DOD/FEA 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:

  
Executive Director

Case No. 2020-00349  
Case No. 2020-00350

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