

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 December 17, 2021, Kentucky Utilities Company (KU), Nolin Rural Electric Cooperative Corporation (Nolin RECC), and East Kentucky Power Cooperative, Inc. (EKPC) (collectively, Joint Applicants) filed a joint 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 the redacted settlement sum set forth in Joint Applicants' settlement agreement resolving a territorial dispute.

In support of their petition, Joint Applicants argued that the settlement sum should be 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 a battery manufacturing facility in Hardin

County, Kentucky at a location known as the Glendale MegaSite. KU and Nolin RECC disputed which electric utility territory the Glendale MegaSite was located within and therefore which utility was entitled to serve the site. Joint Applicants 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.

Joint Applicants argued that the settlement sum should be kept confidential because disclosure of this information could provide insight into the two companies' approaches to the recruitment of new customers and additional load and their methodologies for evaluating the cost and value of providing electric service to potential economic development projects, which third parties could use to unfairly compete against them. Joint Applicants further argued that the Commission granted confidential treatment in a recent proceeding for compensation in exchange for the modification of an existing territorial boundaries map.¹

Having considered the petition and the material at issue, the Commission finds that the designated material is exempt from public disclosure under KRS 61.878(1)(c)(1). This information constitutes internal strategic business information that could harm the parties if used by competitors.² If other electric utilities had knowledge of the compensation

¹ Joint Applicant's Petition for Confidential Treatment (filed Dec. 17, 2021) at 3 (*citing* 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)).

² See Case No. 2019-00370, *Electronic Joint Application of Louisville Gas and Electric Company, Meade County Rural Electric Cooperative Corporation, and Big Rivers Electric Corporation* (Ky. PSC Mar. 9, 2020) Order, finding that a similar settlement agreement payment was entitled to confidential treatment.

amount, that information could be used in future territorial boundary negotiations to the detriment of KU or Nolin RECC and their respective customers. This information therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

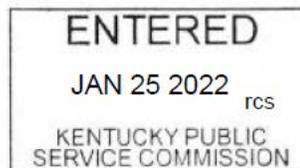
1. Joint Applicants' petition for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).
4. Joint Applicants 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, Joint Applicants 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 Joint Applicants are 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 Joint Applicants to seek a remedy afforded by law.

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By the Commission

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



ATTEST:


Executive Director

Case No. 2021-00462

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