

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SHELBY	)	CASE NO.
ENERGY COOPERATIVE, INC. FOR A GENERAL	)	2024-00351
ADJUSTMENT OF RATES	)	

ORDER

On December 19, 2024, Shelby Energy Cooperative, Inc. (Shelby Energy) filed a motion,<sup>1</sup> pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(a) and KRS 61.878(1)(c)(1), requesting that the Commission grant confidential treatment for an indefinite period for specific information and documents provided in response to Commission Staff's First Request for Information (Staff's First Request), Item 19 under KRS 61.878(1)(a) and KRS 61.878(1)(c)(1).<sup>2</sup>

LEGAL STANDARD

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."<sup>3</sup> Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.<sup>4</sup> The party requesting that materials be treated confidentially has the burden of establishing

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<sup>1</sup> Shelby Energy's Motion for Confidential Treatment (filed Dec. 19, 2024).

<sup>2</sup> Shelby Energy's Motion for Confidential Treatment.

<sup>3</sup> KRS 61.872(1).

<sup>4</sup> See KRS 61.871.

that one of the exceptions is applicable.<sup>5</sup> KRS 61.878(1)(a) provides an exception that “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”<sup>6</sup> KRS 61.878(1)(c)(1) provides an exception to the requirement for public disclosure of records that are “generally recognized as confidential and proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”<sup>7</sup>

### DISCUSSION AND FINDINGS

In response to Staff’s First Request, Item 19, Shelby Energy provided a wage and salary study conducted by a third-party consultant. Shelby Energy argued that the wage and salary study contained personally identifying information about Shelby Energy employees, and the public disclosure of such personal information would constitute an unwarranted invasion of personal privacy.<sup>8</sup> Shelby Energy argued that the information is proprietary and the release of this information could harm Shelby Energy’s competitive position in the marketplace.<sup>9</sup> Shelby Energy stated that it must compete with other employers for the hiring and retention of a skilled workforce, and the disclosure of confidential information would be a detriment to both Shelby Energy and its customers.<sup>10</sup>

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<sup>5</sup> 807 KAR 5:001, Section 13(2)(c).

<sup>6</sup> KRS 61.878(1)(a).

<sup>7</sup> KRS 61.878(1)(c)(1).

<sup>8</sup> Shelby Energy’s Motion for Confidential Treatment at 2.

<sup>9</sup> Shelby Energy’s Motion for Confidential Treatment at 2.

<sup>10</sup> Shelby Energy’s Motion for Confidential Treatment at 2.

Having considered the motion and the material at issue, the Commission finds that Shelby Energy's response to Staff's First Request, Item 19 should be granted confidential treatment pursuant to KRS 61.878(1)(a) and KRS 61.878(1)(c)(1).

The wage and salary, if publicly disclosed, could be used by competitors to compete for employees and would constitute an unwarranted invasion of privacy for Shelby Energy's employees. The Commission has previously found that similar wage and salary studies warranted confidential treatment for an indefinite period.<sup>11</sup>

IT IS THEREFORE ORDERED that:

1. Shelby Energy's December 19, 2024 motion 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. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Shelby Energy shall inform the Commission and file with the Commission an unredacted copy of the designated material.
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

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<sup>11</sup> Case No. 2023-00276 *Electronic Application of Kenenergy Corp. for a General Adjustment of Rates* (Ky. PSC Oct. 31, 2023), Order.

granted confidential treatment has not expired, Shelby Energy 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 Shelby Energy 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 Shelby Energy to seek a remedy afforded by law.

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Chairman

  
Commissioner

  
Commissioner

ATTEST:

  
Executive Director



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