

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

ELECTRONIC APPLICATION OF CITIPOWER, LLC FOR)	
(1) AN ADJUSTMENT OF RATES PURSUANT TO)	
807 KAR 5:076; (2) APPROVAL FOR A CERTIFICATE OF)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY TO PURCHASE)	2019-00109
PIPELINE AND OTHER RELATED ASSETS; AND)	
APPROVAL OF FINANCING)	

MOTION FOR CONFIDENTIAL TREATMENT

Comes now Citipower, LLC (“Citipower”), 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 draft promissory note and mortgage filed with the supplemental status report in this matter. In support of this motion, Citipower respectfully states as follows:

1. On March 29, 2019, Citipower tendered to the Commission an Application for the adjustment of its rates. Citipower’s Application was accepted as filed on May 31, 2019. Citipower filed a status report on February 24, 2020. Citipower is filing a supplement to that status report contemporaneously herewith.

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

3. The Confidential Information includes anticipated interest rates and proprietary loan terms and conditions which are an integral part of the requested approval. The public

disclosure of this information could arm prospective lenders, with whom Citipower may need to negotiate with in the future, with information to allow such lenders an unfair commercial advantage over Citipower.

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

5. The Kentucky Open Records Act and applicable precedent exempts the Confidential Information from disclosure. *See* KRS 61.878(1)(a); *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 Citipower’s competitive position in the marketplace, to the detriment of Citipower and its customers. Additionally, all of the Confidential Information is publicly unavailable and its confidentiality is critical to Citipower’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.

6. Citipower 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.

7. In accordance with the provisions of 807 KAR 5:001, Citipower is filing, under seal unredacted copies of the draft Promissory Note and Mortgage. Citipower is requesting

confidential treatment for the entire documents so no redacted copy will be filed of the Confidential Information

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

9. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Citipower 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, Citipower 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 2nd day of March, 2020.

Respectfully submitted,



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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, this is to certify that the electronically filed documents are true and accurate copies of the same documents being filed in paper medium; that the electronic filing has been transmitted to the Commission on March 2, 2020; that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means; and that the original versions of the documents transmitted electronically will be filed with the Commission in paper medium within two business days from the date of the electronic filing.


Counsel for Citipower, LLC.