

**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 )  
PUBLIC CONVENIENCE AND NECESSITY TO )  
PURCHASE PIPELINE AND OTHER RELATED ASSETS; )  
AND APPROVAL OF FINANCING )**

**CASE NO.  
2019-00109**

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**MOTION FOR CONFIDENTIAL TREATMENT**

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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 certain portions of Citipower’s responses to the requests for information propounded by Commission Staff in the above-captioned proceeding on July 9, 2019. 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, and Commission Staff propounded requests for information on July 9, 2019. Citipower is filing its responses to Staff’s requests for information contemporaneously herewith.

2. Pursuant to Commission regulation and in accordance with law, Citipower requests that the Commission afford confidential treatment to the following proprietary, personal,

confidential, sensitive, and commercially valuable information (collectively, the “Confidential Information”):

a. the insurance policy identification information contained in Citipower’s response to Item No. 34 of Commission Staff’s request;

b. the specific employee identity and compensation information contained in Citipower’s responses to Item Nos. 35 and 37 of Commission Staff’s request;<sup>1</sup> and

c. costs allocated to entities other than Citipower contained in Responses 24 and 25; and

d. information regarding the letter of intent contained in Response 43. A Motion for Confidential Treatment was previously filed for this information with the filing of the Application on March 29, 2019, which is incorporated herein by reference.

3. The Confidential Information is not appropriate for public dissemination because it includes detailed, private material about Citipower’s employees. The employee-specific compensation information, and important insurance and financial account/policy numbers, for which Citipower seeks confidential treatment is all undoubtedly of a personal nature; moreover, to maintain the confidentiality of the relevant information is integral to Citipower’s interests as an employer and service provider. The public disclosure of such sensitive information would constitute a clearly unwarranted invasion of personal privacy and may unfairly harm Citipower’s competitive position in the marketplace. 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

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<sup>1</sup> Because of Citipower’s small workforce, the release of private, employee-specific compensation data cannot be avoided by simply redacting names; for this reason, Citipower seeks confidential protection for both employee identity and corresponding employee compensation information.

Citipower may need to negotiate with in the future, with information to allow such lenders an unfair commercial advantage over Citipower. The Confidential Information also includes costs that were allocated to entities other than Citipower, which are not parties to this proceeding and public dissemination of this information could cause competitive harm to those entities in the marketplace.

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 with its confidentiality denoted, one (1) unredacted copy of its responses containing Confidential Information. Copies of the redacted versions of these documents are also being filed by Citipower.

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 23<sup>rd</sup> day of July, 2019.

Respectfully submitted,



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