

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JACKSON)	
PURCHASE ENERGY CORPORATION FOR)	CASE NO.
A CERTIFICATE OF PUBLIC CONVENIENCE)	2019-00326
AND NECESSITY TO CONSTRUCT A NEW)	
HEADQUARTERS FACILITY)	

**JACKSON PURCHASE ENERGY CORPORATION'S
MOTION FOR DEVIATION FROM POST-COMPLETION
FILING REQUIREMENTS IN FINAL ORDER AND
FROM 807 KAR 5:001, SECTION 13(2)**

AND

**MOTION FOR CONFIDENTIAL TREATMENT
OF VULNERABLE CRITICAL
INFRASTRUCTURE INFORMATION**

Comes now Jackson Purchase Energy Corporation (“Jackson Purchase”), by counsel, pursuant to KRS 61.878, 807 KAR 5:001, Sections 13 and 22, and other applicable law, and for its Motion requesting that the Kentucky Public Service Commission (“Commission”) grant a deviation from certain post-completion filing requirements contained in its January 14, 2020 final order approving Jackson Purchase’s request for approval to construct a new headquarters facility, and determine that certain vulnerable critical infrastructure contained on the final “as-built” drawings of Jackson Purchase’s headquarters facility be afforded confidential treatment, respectfully states as follows:

MOTION FOR DEVIATION

1. In the Commission's January 14, 2020 final order approving Jackson Purchase's request for approval to construct a new headquarters facility, the following post-completion item was directed to be furnished:

- 6. Jackson Purchase Energy shall file with the Commission a copy of the "as-built" drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction certified herein.¹**

2. For the reasons set forth below in support of the motion for confidential treatment the Commission is requested to relieve Jackson Purchase from the requirement to furnish the "as-built" drawings of the headquarters facility in any medium (paper or electronic) that could be accessed and viewed by the general public, in favor of one that is accessible only to the Commission and staff. Should the Commission approve this request an order granting a deviation from ordering paragraph 6, and also from 807 KAR 5:001, Section 13(2) is requested.

MOTION FOR CONFIDENTIAL TREATMENT

3. The "as-built" drawings of Jackson Purchase's new headquarters facility contain locations of certain extremely sensitive and vulnerable building infrastructure, including private entrances and exits utilized by Jackson Purchase staff and employees, critical infrastructure such as the locations of essential building utilities including electrical, gas, water, fire suppression, ventilation, security and other essential systems, information technology closets, internal meeting rooms and communications, dispatch and operations centers, and storage areas containing expensive and potentially dangerous equipment and supplies necessary to maintain service reliability throughout the Cooperative's distribution system. Moreover, these drawings provide

¹ *Final Order*, January 14, 2020, ordering paragraph 6, page 14.

specifications and locations of key structural building elements, which if compromised, could potentially result in property damage and injury or loss of life. Much of this information, if allowed into the public domain could make Jackson Purchase and its staff and employees vulnerable to individuals in the public who might wish to use it for some deleterious purpose to the physical structures in the headquarters campus or to the person of staff, employees or members of Jackson Purchase. The “as-built” drawings are referred to herein collectively as the “Confidential Information”.

4. In accordance with the provisions of 807 KAR 5:001, Section 13, all material on file with the Commission shall be available for examination by the public unless the material is confidential. A request for confidential treatment of material shall be made by motion that establishes specific grounds pursuant to KRS 61.878 for classification of that material as confidential and states the time period for the material to be treated as confidential and the reasons for the time period.

5. KRS 61.878(1)(m)1. protects “public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act.” KRS 61.878(1)(m)1.f. specifically references for protection from public view “infrastructure records that expose a vulnerability... through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems.” KRS 61.878(1)(m)2.b. defines a “terrorist act” to be a “criminal act intended to... disrupt a system identified in subparagraph 1.f. of this paragraph.”

6. The Confidential Information is critical to the uninterrupted daily activities of Jackson Purchase and its staff and employees in conducting the business of its approximately 30,000 members in a safe and business-friendly manner.

7. The Confidential Information is proprietary information that is retained by Jackson Purchase on a “need-to-know” basis and is not publicly available. The Confidential Information is available within Jackson Purchase only to those employees who must have access for business and safety reasons and is generally recognized as confidential in not only the energy industry but across virtually all other commercial industries.

8. Disclosure of the Confidential Information could unreasonably and unnecessarily harm Jackson Purchase and its staff, employees and members by giving those persons with the propensity and/or intent to conduct a terrorist act as defined in KRS 61.878(1)(m)2., on some physical structure or system of the headquarters campus or on an unsuspecting individual or individuals, detailed and critical information helpful to its planning and execution. This possibility is precisely what KRS 61.878(1)(m) is intended to prevent by making such information confidential from public view.

9. 807 KAR 5:001, Section 13(2)(a) requires that when a Motion for Confidential Treatment is made the movant shall file one (1) paper copy of the unredacted material under seal with the Confidential Information highlighted or otherwise denoted. It is impractical, if not virtually impossible, for Jackson Purchase to satisfy this requirement due to the fact that the “as-built” drawings for a building containing approximately 80,000 square feet are quite voluminous, exist in a large architectural-paper medium containing scores of pages, and it would be very difficult to accurately denote the Confidential Information thereby likely confusing the

Commission. For this reason, Jackson Purchase also requests that a deviation be granted for compliance with this section of the Commission's confidentiality regulation.

10. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Jackson Purchase respectfully requests that the Confidential Information which is the subject of this motion be withheld from public disclosure in perpetuity since by its nature as vulnerable critical infrastructure it can never be publicly released for the reasons discussed above.

11. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Jackson Purchase 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, Jackson Purchase respectfully requests that the Commission afford the following relief:

1. Enter an order sustaining Jackson Purchase's motion for deviation from the requirements of the January 14, 2020 final order, ordering paragraph 6., to the extent that it requires a paper copy of the final "as-built" drawings be filed of record;

2. Enter an order sustaining Jackson Purchase's motion for deviation from the requirements of 807 KAR 5:001, Section 13(2)(a), requiring the filing of one (1) paper copy of the unredacted material under seal with the Confidential Information highlighted or otherwise denoted; and,

3. Enter an order classifying and protecting as confidential the specific Confidential Information described herein in perpetuity, subject to further orders of the Commission should the information become publicly available or otherwise no longer warrant confidential treatment.

This 20th day of July, 2021.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to be 'Mark David Goss', written over a horizontal line.

Mark David Goss

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