

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

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

MOTION FOR CONFIDENTIAL TREATMENT

Comes now Jackson Purchase Energy Corporation (“Jackson Purchase”), by counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to certain information contained in its responses to Commission Staff’s Request for Information, respectfully states as follows:

1. On September 13, 2019 Jackson Purchase filed an Application requesting an Order from the Commission granting a Certificate of Public Convenience and Necessity (“CPCN”).
2. On November 13, 2019 Commission Staff issued its first Request for Information.
3. In response to Commission Staff’s First Request for Information Jackson Purchase is providing certain information for which it requests confidential treatment.
4. The information for which Jackson Purchase seeks confidential treatment is contained in its Responses to Commission Staff’s Requests 4 and 6 and is referred to herein as the “Confidential Information” and broadly speaking, includes detailed information regarding sensitive property valuation.

Request No. 4 of the Commission Staff's First Request for Information states as follows:

Refer to the application, paragraph 5.

- a. Provide the purchase date and the purchase price for the 19 acres of land on which the current headquarters is located. Provide all improvements Jackson purchase made to the 19 acres of land since the original purchase.
- b. For each of the three separate masonry buildings, provide the date the buildings were placed in service, the original cost, the accumulated depreciation, and net book value as of December 31, 2018. In addition, for each of the three separate masonry buildings, provide the date of any capitalized improvements, the original cost, accumulated depreciation, and net book value of such improvements as of December 31, 2018.
- c. Provide the assessed value of the land and the three separate masonry buildings for 2018 and 2019 as determined by the Kentucky department of Revenue, Public Service Branch
- d. Provide the estimated fair market value of Jackson Purchase's current headquarters and the basis for this amount.
- e. Explain how Jackson Purchase plans to treat any proceeds from the proposed sale of the current headquarters facility.

5. In its response to Request No. 4, Jackson Purchase is filing a copy of the commercial appraisal report on its existing headquarters facilities. Disclosure of the information contained in the commercial appraisal could potentially harm Jackson Purchase if the existing headquarters is later sold and could give potential purchasers of the property an unfair commercial advantage by having access to a commercial appraisal requested and paid for by Jackson Purchase which could affect the ultimate purchase price obtained by Jackson Purchase.

6. Request No. 6 of Commission Staff's First Request for Information states as follows:

Refer to the application, paragraph 12.

- a. Provide the assessed value for the land and improvements at the proposed site for 2018 and 2019 as determined by the McCracken County Property Valuation Administrator.
- b. Provide a copy of the commercial appraisal of the proposed site.

7. In its response to Request No. 6, Jackson Purchase is filing a copy of the commercial appraisal for the proposed site. Disclosing this information could cause harm to both Jackson Purchase and the current owners if the agreed-upon purchase is not approved by the Commission and such appraisal amount became known to third-parties interested in acquiring the proposed site from the current owners.

8. KRS 61.878(1)(c)(1) protects “records 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.” The Kentucky Supreme Court has stated, “information concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary’” *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The Confidential Information is critical to the effective execution of business decisions and strategy. If disclosed, the Confidential Information would give competitors an unfair commercial advantage and insights into Jackson Purchase’s business operations and financial strategies that are otherwise publicly unavailable. Accordingly, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

9. 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 distributed within Jackson Purchase only to those employees who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

10. Disclosure of the information contained in the appraisals of the existing facility and the proposed facilities could harm both Jackson Purchase and the current owners of the existing facilities. This could lead to an unfair commercial advantage to future purchases of the existing

facility if the amount is disclosed and the Commission ultimately denies the purchase of the proposed facility. Furthermore, disclosing the appraised value on the existing facility if the purchase is not approved, could place the current owners at an unfair disadvantage in future negotiations with prospective purchasers.

11. Jackson Purchase 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.

12. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Jackson Purchase is filing one (1) copy of the unredacted responses to Requests 4 and 6 separately under seal with the Confidential Information highlighted or otherwise denoted. An original redacted hard copy and the electronic version of the responses has also been tendered to the Commission.

13. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Jackson Purchase respectfully requests that the Confidential Information be withheld from public disclosure for a period of five years or until the respective properties are individually purchased/sold by Jackson Purchase, whichever occurs first.

14. 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 classify and protect as confidential the specific Confidential Information described herein for time periods described above.

This 25th day of November, 2019.

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 November 25, 2019; 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 Jackson Purchase Energy Corporation