

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF)	
CUMBERLAND VALLEY ELECTRIC, INC.)	
FOR A GENERAL ADJUSTMENT OF)	Case No. 2020-00264
RATES PURSUANT TO STREAMLINED)	
PROCEDURE PILOT PROGRAM)	
ESTABLISHED IN CASE NO. 2018-00407)	

MOTION FOR CONFIDENTIAL TREATMENT

Comes now Cumberland Valley Electric, Inc. (“Cumberland Valley”) by counsel, pursuant to KRS 61.878, 807 KAR 5:001 Section 13 and other applicable law, and respectfully moves the Commission to afford confidential treatment to certain information and documents filed by Cumberland Valley in response to the requests for information propounded by Commission Staff and the Attorney General, respectively, in the above-styled matter. In support of this request, Cumberland Valley states as follows:

1. On September 23, 2020, Cumberland Valley filed its Application in this matter. On October 29, 2020 the Attorney General, by and through his Office of Rate Intervention (“AG”) propounded requests for information upon Cumberland Valley. On October 30, 2020, Commission Staff propounded requests for information upon Cumberland Valley. Cumberland Valley is filing responses to these requests for information contemporaneously herewith.

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

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

a. the CFC Key Ratio Trend Analysis provided in response to Item 7 of the Commission Staff’s request for information. The formulas, computations and information contained in the materials are highly proprietary and are protected by copyright and other laws. In CFC's continued effort to provide their members with value-added services, these materials were furnished to Cumberland Valley solely for its own business purposes and if disclosed could provide a commercial advantage to those in competition with Cumberland Valley in its market for skilled employees. According to CFC, the Key Ratio Trend Analysis is confidential and proprietary to CFC, and should only be shared with the cooperative and its trusted legal and accounting advisers. CFC clearly cautions that “use of these materials should be carefully considered with all other relevant data or information that may be important or specific to your system or cooperative”.

b. the recent wage and salary study conducted by a third-party consultant containing specific employee identity and cooperative-wide compensation information (job titles, salaries, compensation adjustments and/or similar information), a copy of which is being filed under seal tendered contemporaneously herewith in response to Item 5 of the Commission Staff’s request for information;

c. the wage and salary plan for Cumberland Valley employees and the salary increases for the employees is being provided in response to Item 14 of the Attorney General’s request for information. This information is highly sensitive and personal information regarding employees of Cumberland Valley as well as highly sensitive and proprietary information. If the wage and salary plan were released it would reveal the strategy and business decisions of

Cumberland Valley to the detriment of Cumberland Valley and its members. In addition, salary information provided for the identified employees in response to Item 6 of the Attorney General's request for information has also been redacted since it is information of a personal nature for these employees.

d. the collective bargaining agreement between Cumberland Valley and its union employees is being provided in response to Item 8 to Commission Staff's request for information. This information is highly sensitive and contains business decisions and strategy regarding Cumberland Valley's union employees that could be detrimental to both Cumberland Valley and its members if this information became public.

3. Each item for which Cumberland Valley requests confidential treatment warrants protection from open viewing and distribution. The Key Ratio Trend Analysis is protected by copyright law and only given to Cumberland Valley for use for Cumberland Valley's business purposes. The wage and salary information provided in response to Item 6 of Commission Staff's request for information and Item 14 of the Attorney General's request for information is clearly private and commercially valuable. The salary increase information as well as the salary information for related employees for Cumberland Valley is highly sensitive and personal in nature, and if disclosed could provide individuals seeking future employment with Cumberland Valley an unreasonable commercial advantage. All of the Confidential Information is proprietary information that is retained by Cumberland Valley on a need-to-know basis and is only distributed within Cumberland Valley to those people holding select positions who must have access for business purposes. The Confidential Information is generally recognized as confidential and proprietary in the utility industry and elsewhere.

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

5. Cumberland Valley 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.

6. Contemporaneously with this motion, Cumberland Valley is filing an electronic, redacted version of its responses to the relevant requests for information. By subsequent hand-delivery, within thirty days of the state of emergency being lifted for COVID-19 Cumberland Valley intends to tender one (1) hardcopy, redacted original of each response and, in a separate sealed envelope marked confidential, one (1) unredacted copy of the Confidential Information.

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

8. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Cumberland Valley will notify the Commission and seek to have confidential protection removed, pursuant to 807 KAR 5:001 Section 13(10).

WHEREFORE, on the basis of the foregoing, Cumberland Valley 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 9th day of November 2020.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on November 9, 2020; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a copy of the filing in paper medium will be filed with the Commission within thirty days of the current state of emergency for COVID-19 being lifted.

Mark David Goss

Counsel for Cumberland Valley Electric, Inc.