

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 supplemental requests for information propounded by Commission Staff, in the above-styled matter. In support of this request, Cumberland Valley states as follows:

1. Commission Staff propounded supplemental requests for information upon Cumberland Valley on November 25, 2020. 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”): the salary information and the additional information contained in the Attachment to Item 13, pages 2-9, for the cost justification of certain non-recurring charges.

This information could be used to determine the salary paid to certain employees based on the amount of time spent and the cost allocated to that employee's time. This information is highly sensitive and personal information regarding employees of Cumberland Valley as well as highly sensitive and proprietary information. If the salary information was released it would reveal the strategy and business decisions of Cumberland Valley to the detriment of Cumberland Valley and its members.

3. Each item for which Cumberland Valley requests confidential treatment warrants protection from open viewing and distribution. The salary information provided in response to Item 13 of Commission Staff's supplemental request for information is clearly private and commercially valuable. The salary information, and the additional information that could be used to back into the salary amount, is highly sensitive and personal in nature, and if disclosed could provide individuals seeking future employment with Cumberland Valley an unreasonable commercial advantage and affords companies desiring to hire away Cumberland Valley employees knowledge of the compensation level necessary to succeed. 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 7th day of December 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 December 7, 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.



Counsel for Cumberland Valley Electric, Inc.