

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

<b>APPLICATION OF KENERGY CORP.</b>	)	
<b>FOR AN ADJUSTMENT OF RATES</b>	)	<b>CASE NO. 2021-00066</b>
<b>PURSUANT TO STREAMLINED PROCEDURE</b>	)	
<b>PILOT PROGRAM ESTABLISHED IN CASE</b>	)	
<b>NO. 2018-0407</b>	)	

**PETITION OF KENERGY CORP.  
FOR CONFIDENTIAL TREATMENT**

Come now **KENERGY CORP.** (“Kenergy”) and **BLAIR JOHANSON**, by and through its counsel, and, pursuant to 807 KAR 5:001 Section 13 and KRS 61.878, hereby jointly petition the Public Service Commission for the Commonwealth of Kentucky (“Commission”) for an order granting confidential protection to certain information Kenergy is providing with its application. The information Kenergy and Blair Johanson seek to protect as confidential is hereinafter referred to as the “Confidential Information.” As grounds for its motion, Kenergy and Blair Johanson state as follows.

The Confidential Information includes: Blair Johanson Wage Study Information (A) Exhibit BJ-1: a list of companies who were requested to participate in the wage and benefit study; (B) Exhibit BJ-2: Market pay study results; (C) Exhibit BJ-3; Benefits study results. In compiling the information, Blair Johanson is able to obtain most of the information by assuring the participating surveyed business that the information is confidential.

One (1) copy of the hardcopy pages (filed electronically) containing Confidential Information, with the Confidential Information highlighted with transparent ink, printed on yellow paper, or otherwise marked “CONFIDENTIAL,” is being filed with this petition. A copy of those pages with the Confidential Information redacted is being filed electronically for public

view. 807 KAR 5:001 Section 13(2)(a)(3). A copy of this petition with the Confidential Information redacted has been served on all parties to this proceeding pursuant to 807 KAR 5:001 Section 13(2)(b). A copy of the Confidential Information has been served on all parties that have signed a confidentiality agreement.

The Confidential Information is not publicly available, is not disseminated within Kenergy except to those employees and professionals with a legitimate business need to know and act upon the information, and is not disseminated to others without a legitimate need to know and act upon the information. Furthermore, the names of the participating industries are confidential as most are not regulated and the information is shared among by these companies with Blair Johanson under the auspices of confidentiality

If and to the extent the Confidential Information becomes generally available to the public, whether through filings required by other agencies or otherwise, Kenergy will notify the Commission and have the information's confidential status removed pursuant to 807 KAR 5:001 Section 13(10)(b).

As discussed below, the Confidential Information is entitled to confidential protection pursuant to the Commission's standard practices regarding information protected by confidentiality with third parties. The Confidential Information is entitled to confidential protection pursuant to KRS 61.878(1)(c)(1), which 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." *See generally* 807 KAR 5:001 Section 13(2)(a)(1) (requiring specific grounds pursuant to KRS 61.878 for classification of material as confidential). Because these utilities compete for employees with other utilities and other

industries, it places them at an unfair disadvantage in compensation and retention if their proprietary information is disclosed.

**Time Period**

Pursuant to 807 KAR 5:001 Section 13(2)(a)(2), Kenergy requests that the Confidential Information be afforded confidential treatment in perpetuity. The information originated with third parties and contains proprietary and competitive salary information about numerous individuals. Unlike competitive concerns, these privacy concerns do not disappear with the passage of time. The information can only be adequately protected if the Confidential Information is protected in perpetuity.

**Conclusion**

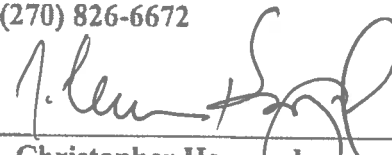
Based on the foregoing, the Confidential Information is entitled to confidential treatment pursuant to 807 KAR 5:001 Section 13 and KRS 61.878. If the Commission disagrees that Kenergy's Confidential Information is entitled to confidential treatment, due process requires the Commission to hold an evidentiary hearing. *Utility Regulatory Comm'n v. Kentucky Water Serv. Co., Inc.*, 642 S.W.2d 591 (Ky. App. 1982).


Blair Johanson joins in this petition to seek this confidentiality petition as a real party in interest.

WHEREFORE, Kenergy and Blair Johnanson respectfully move that the Commission classify and protect as confidential the Confidential Information.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that the electronic version of the foregoing and its attachments, exhibits and testimony is a true and accurate copy of the paper original and that the electronic version has been submitted to the Commission by electronic mail and further that the Attorney General of Kentucky, Office of Rate Intervention, 1024 Capital Center Drive, Frankfort, Kentucky 40601, has been notified by electronic mail of the availability of this filing on the Commission's website, on this 1<sup>st</sup> day of March, 2021.

  
J. Christopher Hopgood

The following exhibits to Mr. Blair Johanson's Direct Testimony are provided under petition for confidential treatment:

Exhibit BJ-1

List of Companies who were requested to participate in the Wage and Benefit Study

Exhibit BJ-2

Market Pay Study Results

Exhibit BJ-3

Benefits Study Results