

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF )  
FLEMING-MASON ENERGY COOPERATIVE, )  
INC., FOR PASS-THROUGH OF EAST ) Case No. 2021-00109  
KENTUCKY POWER COOPERATIVE, INC.'S )  
WHOLESALE RATE ADJUSTMENT )

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FLEMING-MASON ENERGY COOPERATIVE, INC.'S  
MOTION FOR CONFIDENTIAL TREATMENT

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Comes now Fleming-Mason Energy Cooperative, Inc. (“Fleming-Mason”), 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 filed in its Responses to Commission Staff’s Second Information Request (“Staff’s Second Request”) in the above-captioned proceeding, respectfully states as follows:

1. Fleming-Mason filed its Pass Through Application in the above-styled proceeding on April 1, 2021.
2. Commission Staff issued Staff’s Second Request for Information on June 15, 2021. As part of Fleming-Mason’s responses to Staff’s Second Request, Fleming-Mason is filing information regarding the energy usage and revenue associated with one particular customer. Collectively this information and is hereinafter referred to as the “Confidential Information.” Specifically, the Confidential Information is being provided in response to Staff’s Second Request No. 1.

3. Request No. 1 from the June 15<sup>th</sup> request for information states as follows: “Provide the monthly usage and revenue for AppHarvest Morehead Farm, LLC (AppHarvest Morehead) for 2020 and 2021 to date.” In the response to Request No. 1, Fleming-Mason is providing the monthly energy usage and revenue for this customer for the period in question.

4. The information included in the response listed above is being tendered in redacted form in the public version of Fleming-Mason’s filing and in an unredacted form filed under seal herewith.

5. The Confidential Information contains sensitive information that describes the customer’s unique usage and associated revenue. The Confidential Information is commercially sensitive and proprietary, is retained by Fleming-Mason on a “need-to-know” basis, and is not publicly available. Moreover, it is well-understood that individual customers have a reasonable expectation of privacy with regard to their unique transactions with a regulated utility.<sup>1</sup>

6. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. *See* KRS 61.878(1)(c). As set forth above, disclosure of the Confidential Information would permit an unfair advantage to third parties. Moreover, 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).

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<sup>1</sup> *See* 807 KAR 5:001, Section 4(10); *In the Matter of the Electronic Application of Duke Energy Kentucky, Inc. for: 1) An Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities and 5) All Other Required Approvals and Relief*, Order, Case No. 2017-00321 (Ky. P.S.C. May 3, 2018); *In the Matter of the Proposed Revision of Rules Regarding the Provision of Wholesale Water Service by the City of Versailles to Northeast Woodford Water District*, Order, Case No. 2011-00419 (Ky. P.S.C. Mar. 14, 2012) (commercial account information).

7. Fleming-Mason does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure agreement, to the Attorney General or any other intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

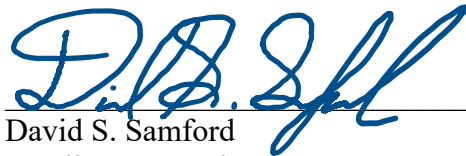
8. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Fleming-Mason is filing one copy of the Confidential Information separately under seal. The filing of the Confidential Information is noted in the public version of Fleming-Mason's responses, which include redacted copies of such information.

9. In accordance with the provisions of 807 KAR 5:001, Section 13(3), Fleming-Mason respectfully requests that the Confidential Information be withheld from public disclosure for an indefinite period of time.

WHEREFORE, on the basis of the foregoing, Fleming-Mason respectfully requests the Commission to enter an Order granting this Motion for Confidential Treatment and to so afford such protection from public disclosure to the unredacted copies of Confidential Information, which is filed herewith under seal, for an indefinite period of time from the date of entry of such an Order.

This 23<sup>rd</sup> day of June, 2021.

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 June 23, 2021; 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 delivered to the Commission within thirty (30) days of the conclusion of the present COVID-19 related state of emergency.



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*Counsel for Fleming-Mason Energy  
Cooperative, Inc.*