

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
SOUTH KENTUCKY RURAL ELECTRIC)	
COOPERATIVE CORPORATION FOR)	CASE NO.
A GENERAL ADJUSTMENT OF RATES,)	2021-000407
APPROVAL OF A DEPRECIATION STUDY,)	
AND OTHER GENERAL RELIEF)	

MOTION FOR CONFIDENTIAL TREATMENT

Comes now South Kentucky Rural Electric Cooperative Corporation (“South Kentucky”), 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 South Kentucky in response to the requests for information propounded by Commission Staff in the above-styled matter. In support of this request, South Kentucky states as follows:

1. On December 14, 2021, South Kentucky filed its Application in this matter. Previously, on November 29, 2021, Commission Staff propounded requests for information upon South Kentucky which is filing responses to these requests for information contemporaneously herewith.

2. Pursuant to Commission regulation and in accordance with law, South Kentucky requests that the Commission afford confidential treatment to certain proprietary, personal, confidential, sensitive, and commercially valuable information (“Confidential Information”). The Confidential Information for which South Kentucky seeks relief are recent wage and salary studies

conducted by a third-party consultant containing job titles which, to those familiar with South Kentucky's employee roster, could translate to immediate identification of individual employees, and cooperative-wide compensation information (job titles, salary ranges for those job titles, current salaries, compensation adjustments and/or similar information). This information is contained in the electronic file tendered contemporaneously herewith in response to Item 19 of the Commission Staff's requests for information. South Kentucky's responses to Item 19 contains four separate such reports as follows: (1) 2019 wage and salary survey, dated April 19, 2019 (32 pages); (2) 2021 wage and salary survey, dated July 2, 2021 (35 pages); (3) 2021 Chief Operating Officer and Vice-President valuation, dated July 15, 2021 (5 pages); and, (4) 2021 Chief Executive Officer valuation, dated July 15, 2021 (4 pages).

3. The Confidential Information includes private, cooperative-wide current and historical compensation information for all individuals employed by South Kentucky. The public disclosure of such sensitive information, which is undoubtedly of a personal nature, would constitute a clearly unwarranted invasion of personal privacy. Moreover, because South Kentucky competes with numerous other employers with respect to the acquisition and retention of a skilled workforce, the public disclosure of the delicate and protected employee compensation information would unfairly harm South Kentucky's competitive position in the marketplace for utility management and such skilled workforce. South Kentucky acknowledges the Commission has historically denied requests for confidential treatment of executive officer compensation amounts. However, the third-party compensation surveys at issue here contain data which was used in the analysis employed by South Kentucky's Board of Directors (in the case of the CEO's compensation), and by the CEO (in the case of the COO's and VP's compensation) to arrive at such final compensation amounts, which if disclosed, could provide some future Executive Officer

of South Kentucky an unfair commercial advantage by being apprised of the analysis employed and the range of compensation amounts used in that analysis.

4. The item for which South Kentucky requests confidential treatment warrants protection from open viewing and distribution. The employee-specific wage and salary information provided in response to Item 19 of the Commission Staff's request for information is clearly private and commercially valuable. All of this Confidential Information is proprietary information that is retained by South Kentucky on a "need-to-know" basis. The Confidential Information is distributed within South Kentucky only to those holding select positions who must have access for business reasons, and it is generally recognized as confidential and proprietary in the utility industry and elsewhere.

5. 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 South Kentucky's competitive position in the marketplace, to the detriment of South Kentucky and its customers. Additionally, the Confidential Information is publicly unavailable and its confidentiality is critical to South Kentucky'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.

6. South Kentucky 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.

7. Because the Confidential Information is so pervasive that it is impractical for South Kentucky to permit individual redaction due to the fact that virtually every portion contains confidential and proprietary information which would result in a version that would be unreadable, South Kentucky is filing an electronic, completely redacted version of its responses to the relevant request for information. South Kentucky is requesting confidential treatment for the Confidential Information in its entirety pursuant to 807 KAR 5:001, Section 13(2)(a)3.b. In accordance with the provisions of 807 KAR 5:001, Section 13(2), South Kentucky is filing one copy of the Confidential Information separately under seal. The filing of the Confidential Information is noted in the public version of South Kentucky's response to Request 19.

8. Also, in accordance with the provisions of 807 KAR 5:001 Section 13(2), South Kentucky respectfully requests that the Confidential Information be withheld from public disclosure for ten (10) years.

9. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, South Kentucky 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, South Kentucky 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 23rd of December, 2021.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the electronic filing was transmitted to the Commission on December 23, 2021 and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 no paper copies of this filing will be made.

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