

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SOUTH KENTUCKY RURAL)	
ELECTRIC COOPERATIVE CORPORATION FOR A GENERAL)	CASE NO.
ADJUSTMENT OF RATES, APPROVAL OF DEPRECIATION)	2021-00407
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 and the Kentucky Attorney General (“AG”) 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. On January 19, 2021, and January 20, 2021, Commission Staff and the AG, respectively, propounded requests for information upon South Kentucky. South Kentucky 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 is as follows:

3. *Wage and Salary Information in response to AG 1-15 a., d., g., j., and n.,
AG 1-20 d., and AG 1-24*

AG 1-15 a., d., g., and j., request South Kentucky provide a multitude of employee compensation information, including title, salary and award information for salaried employees, title, wages and award information for non-salaried employees, and in AG 1-15 n., all formal studies conducted comparing South Kentucky's wage and benefit information to the local wage and benefit information for the geographic area of its operations. AG 1-20 d. and AG 1-24 similarly request South Kentucky provide the job title, duties, and associated salary/benefits for each of the six positions that were vacated and not filled as a cost control measure. South Kentucky provides the requested information in responses to AG 1-15 a., d., g., and j., with redactions to the identifying position title since the referenced individuals are not executive-level employees. South Kentucky's response to AG 1-15 n., provides an electronic copy of the most 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). The response also contains similar historical wage and salary studies dating back to 2012. South Kentucky's response to AG 1-20 d. and AG 1-24 provides salary and benefit information for the vacated positions as requested by the AG. The Confidential Information includes private, cooperative-wide current and historical compensation information for all individuals employed by South Kentucky, as well as specific wage and salary information for vacated positions, at least one of which may be re-filled in the near future. 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 other skilled workers. The items for which South Kentucky requests confidential treatment warrant protection from open viewing and distribution. The employee-specific wage and salary information provided in response to AG 1-15 a., d., g., j. and n., and the information provided in responses to AG 1-20 d., and AG 1-24, is clearly private and commercially valuable.

South Kentucky previously filed a similar Motion for Confidential Treatment in this case on December 23, 2021, in conjunction with the filing of requested information almost identical to that contained in AG 1-15 n. Reference is made to Commission Staff's Initial Requests for Information dated November 29, 2021, Item 19. This motion has not yet been ruled upon by the Commission. South Kentucky respectfully adopts the December 23, 2021, Motion for Confidential Treatment as additional grounds and rationale in support of this Motion.

Because the Confidential Information contained in the various Wage and Salary Surveys 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 AG 1-15 n. South Kentucky is requesting confidential treatment for the Confidential Information contained in response to AG 1-15 n., in its entirety pursuant to 807 KAR 5:001, Section 13(2)(a)3.b. Regarding the response to AG 1-20 d., South Kentucky is providing redactions to the salary portion of a chart contained in the narrative response. For the response to AG 1-24 South Kentucky is providing a redaction in the narrative response for the salary amount of the referenced unfilled position. 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 versions of South Kentucky's responses to the affected requests.

4. *Right of Way Contract Bids, Contracts and Related Information in response to PSC 2-3, located on Pages 17, 18, 23, 31, 90, 106, 154, 155, 159, 164, 165, 181, 227, 243, 244, 246 and 298 of 298.*

PSC 2-3 a. through d., requests South Kentucky provide detailed documentary information pertaining to right of way expense between 2016 and 2020, annual right of way costs, and requests for proposal, responses and contracts awarded for implementation of the most recent right of way contract. The Confidential Information includes right of way contractor bids provided to South Kentucky in response to a Request for Proposal ("RFP") which South Kentucky initiated for its continuing system wide vegetation management activities. Also included in the disclosed information are final right of way contracts with the successful bidders. The information for which confidential treatment is sought contains specific dollar amounts of the bids and final contracts. Right of way management is one of the largest annual expenditures for South Kentucky. It is essential that when bidding and re-bidding for such services South Kentucky be insured of receiving the lowest and best bids in order to mitigate the large annual expense associated with this activity. Therefore, it is also essential that right of way bidding and final contract amounts be held in the strictest confidence. To allow otherwise would provide future right of way contractors who choose to bid for South Kentucky's vegetation management work an enormous commercial advantage over both South Kentucky and competing bidders.

5. *Member Names Associated with Bad Debt Recapture in response to PSC 2-15, located on pages 3-36 of 38.*

PSC 2-15 requests South Kentucky provide support for the going level of bad-debt recapture. In response to this Information Request South Kentucky furnishes a 38-page exhibit which provides detail about bad-debt accounts by member name and amount. South Kentucky has redacted the portion of the exhibit containing the names/identities of its members contained on the bad-debt account list. This is personal information which if disclosed could result in embarrassment and ridicule for those members identified. Moreover, the public has no conceivable need nor right to possess this information.

6. *Employee and Retiree Names Associated with Life Insurance Policies in response to PSC 2-21.*

PSC 2-21 requests South Kentucky to provide support for the employee/retiree life insurance policy expense. In response to this Information Request South Kentucky furnishes a 265-page exhibit containing the names and addresses of various South Kentucky employees and retirees who have coverage under a South Kentucky master life insurance policy. The exhibit also provides information on financial and other similar transactions involving individual South Kentucky employees and former employees. South Kentucky has redacted portions of the exhibit containing the names/identities/addresses of its employees and former employees. This is personal information which if disclosed could embarrass those individuals by publicizing and comparing one employee's life insurance coverage to another's. Moreover, the public has no conceivable need nor right to possess this information.

7. All of the above 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 all lines of commercial business generally, and the utility industry specifically.

8. The Kentucky Open Records Act and applicable precedent exempt 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 not publicly available 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.

9. 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.

10. 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.

11. 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, based on 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 2nd day of February, 2022.

Respectfully submitted,

Mark David Goss

Mark David Goss
L. Allyson Honaker
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B-325
Lexington, Kentucky 40504
(859) 368-7740
mdgoss@gosssamfordlaw.com
allyson@gosssamfordlaw.com
Counsel for South Kentucky RECC

CERTIFICATE OF SERVICE

This is to certify that the foregoing copy of South Kentucky RECC's Motion for Confidential Treatment is being electronically transmitted to the Commission on February 2, 2022; and that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

Mark David Goss

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