

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
TAYLOR COUNTY RURAL ELECTRIC)	CASE NO.
COOPERATIVE CORPORATION FOR)	2023-00147
A GENERAL ADJUSTMENT OF RATES)	

MOTION FOR CONFIDENTIAL TREATMENT

Comes now Taylor County Rural Electric Cooperative Corporation (“Taylor County RECC”), 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 Taylor County RECC in response to the requests for information propounded by Commission Staff and the Attorney General’s Office in the above-styled matter.

In support of this request, Taylor County RECC states as follows:

1. On May 1, 2023, Taylor County RECC filed its Notice of Intent to file a general adjustment of rates and filed its Application on June 6, 2023. Prior to filing the Application, Commission Staff issued its First Request for Information (“Staff’s First Requests”) to Taylor County RECC on May 11, 2023. Taylor County RECC filed responses to Staff’s First Requests on June 19, 2023.

2. On July 5, 2023, Commission Staff issued its Second Request for Information (“Staff’s Second Requests”) and the Attorney General’s Office issued its First Request for Information (AG’s First Requests”). Taylor County RECC is filing responses to Staff’s Second Requests and the AG’s First Requests contemporaneously with this Motion.

3. Taylor County RECC requests the Commission to afford confidential protection to certain information being filed by Taylor County RECC in response to Staff's Second Requests Item No. 1c and the AG's Frist Requests Item No. 3, 27a and 102. The information provided is proprietary, personal, confidential, sensitive, and commercially valuable information. This information is collectively referred to as the "Confidential Information". The Confidential Information for which Taylor County RECC seeks confidential protection is bids received from third-party contracts for right-of-way management, personal salary information of employees and Key Ratio Trend Analysis ("KRTA") compiled by Cooperative Financial Corporation ("CFC"). The Confidential Information if disclosed would permit Taylor County RECC's competitors an unfair commercial advantage. The Confidential Information also contains information pertaining to information subject to copyright laws, which the Commission has granted confidential treatment to in prior Commission proceedings.¹

4. KRS 61.878(1)(c) 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." KRS 61.878(1)(c)(1); 807 KAR 5:001 8 Section 13(2)(a)(1). Taylor County RECC operates in a competitive environment especially with regards to obtaining contractors to perform right-of-way management. The Confidential Information is generally recognized as confidential or proprietary and public disclosure of the Confidential Information would permit an unfair commercial advantage to Taylor County RECC's competitors. See KRS 61.878(1)(c).

¹ See, Case No. 2021-00358, *Electronic Application of Jackson Purchase Corporation for a General Adjustment of Rates and Other General Relief* (Ky. P.S.C. Dec. 9, 2021, Order at 2, granting confidential treatment to a KRTA and citing Case No. 2018-00358, *Electronic Application of Kentucky American Water Company for an Adjustment of Rates* (Ky. P.S.C. Mar. 14, 2019), Order at 2.

5. In addition to the bid information, Taylor County RECC is providing KRTA compiled by CFC which is subject to copyright law. CFC has the right to rely on its copyright to protect against the public disclosure of the information. Release of the KRTA could put Taylor County RECC in the position to be accused of violating CFC's copyright. This could also hinder Taylor County RECC in being granted access to the information in the future. Both the right-of-way bids and the KRTA should be kept confidential in their entirety. Releasing the Confidential Information to the public would unfairly harm Taylor County RECC and its competitive position in the marketplace, not to mention the violation of copyright law.

6. The additional Confidential Information contains personal salary information for Taylor County RECC employees including salaries and percentage increases which are personal and confidential information. KRS 61.878(1)(a) exempts from public disclosure “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” Taylor County RECC's employees have an expectation of privacy for their personal and confidential salary information. This information is personal in nature and if disclosed could violate Taylor County RECC's employees' personal privacy. The public release of this information could also give Taylor County RECC's competitors information that could aid them in poaching employees from Taylor County RECC which could harm Taylor County RECC and its end-use members.

7. The Confidential Information is proprietary information that is retained by Taylor County RECC on a “need-to-know” basis and is only distributed by Taylor County RECC 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.

8. The Kentucky Open Records Act and applicable precedent exempts the Confidential Information from disclosure, including 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). As stated above, the public disclosure of the Confidential Information would potentially harm Taylor County RECC's competitive position in the marketplace which would be to the detriment of both Taylor County RECC and its end-use members. Additionally, the Confidential Information is publicly unavailable and its confidentiality is critical to Taylor County RECC'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. Taylor County RECC does not object to limited disclosure of the Confidential Information described herein, pursuant to a confidentiality agreement, to intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

10. Taylor County RECC is requesting confidential treatment for the entirety of all documents being filed under seal pursuant to 807 KAR 5:001, Section 13(2)(a)3.b. For that reason, a redacted version of the Confidential Information is not being filed. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Taylor County RECC is filing one copy of the Confidential Information separately under seal, without highlights since confidential protection for the entire documents is being sought. The filing of the Confidential Information is noted in the public version of Taylor County RECC's responses.

11. Also, in accordance with the provisions of 807 KAR 5:001 Section 13(2), Taylor County RECC respectfully requests that the Confidential Information be withheld from public

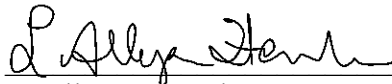
disclosure for a period of ten (10) years. However, Taylor County RECC reserves the right to extend this timeframe if necessary.

12. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Taylor County RECC 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, Taylor County RECC 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 19th of July, 2023.

Respectfully submitted,

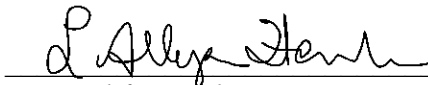


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CERTIFICATE OF SERVICE

This is to certify that the electronic filing was transmitted to the Commission on July 19, 2023 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.



Counsel for Taylor County RECC