

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF)
FLEMING-MASON ENERGY COOPERATIVE,) Case No. 2023-00223
INC. FOR A GENERAL ADJUSTMENT OF RATES)

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

Comes now Fleming-Mason Energy Cooperative, Inc. (“Fleming-Mason”) by counsel, and pursuant to 807 KAR 5:001 Section 13, KRS 61.878, and hereby moves the Commission for an Order granting confidential treatment to certain information and documents produced by Fleming-Mason in response to the Commission Staff’s Fourth Request for Information filed January 9th, 2024 and the Attorney General’s Supplemental Third Request for Information filed January 9th, 2024. In support of this Motion, Fleming-Mason requests confidential treatment for the following information and documents on the following grounds:

**ATTORNEY GENERAL REQUEST FOR INFORMATION, NO. 9, AND COMMISSION
STAFF REQUEST FOR INFORMATION NO. 2, RIGHT OF WAY CONTRACTS**

Request number 9 of the Attorney General and number 2 of the Commission Staff request the same information:

OAG 9. Please provide all supporting documentation for the test year costs, 2023 costs, and budget ROW costs, including, but not limited to, excerpts from trial balance reports, copies of contracts, and invoices for 2022 and 2023.

PSC 2. Refer to Fleming-Mason’s response to Staff’s Third Request, Item 5. Provide supporting documentation for the pro forma right-of-way maintenance expenses, including but not limited to the contract for right-of-way maintenance.

In response to these requests Fleming-Mason tenders its actual right-of-way contracts, invoices and work orders, as well as an Excel spreadsheet of bid items amounts paid under the contracts. The contracts were obtained by competitive bid. The contracts, invoices and work orders contain individual bid items for equipment rates and labor rates. The itemized payments in the Excel spreadsheet include bid items taken from those contracts. These contracts are proprietary. Public disclosure of these contracts and the information in them would present an unfair commercial advantage to future bidders for right of way contracts that would be detrimental to Fleming-Mason Energy. KRS 61.878(1)(c).

Under 807 KAR 5:001 Section 13 the right of way contract information is clearly confidential pursuant to KRS 61.878(c). As the confidential information in the documents is so pervasive that redaction would be impractical, Fleming-Mason requests to be permitted to file the entire contracts and excel document containing the contract information, under seal as confidential information.

In accordance with the provisions of 807 KAR 5:001 Section 13(2), Fleming-Mason respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten (10) years. However, Fleming-Mason reserves the right to extend this timeframe if necessary.

If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Fleming-Mason will notify the Commission and seek to have confidential protection removed, pursuant to 807 KAR 5:001 Section 13(10).

COMMISSION STAFF REQUEST FOR INFORMATION NO. 3 WAGE INFORMATION.

Commission Staff request number 3 requests wage information broken down by employee:

PSC 3. Refer to Fleming-Mason's response to Staff's Third Request, Item 6.

Provide a breakdown of the pro forma test-year wages and salaries, showing each employee's regular and overtime hours, wage rates, and total wages.

Fleming-Mason employees have reasonable expectation that their salary and wage information is private and confidential. Pursuant to KRS 61.878(1)(a) such information is personal and disclosure would constitute an unwarranted invasion of privacy for Fleming-Mason Employees. Further, disclosure of such information would place Fleming-Mason at a disadvantage in the workforce market. Because Fleming-Mason competes with numerous other employers with respect to the acquisition and retention of a skilled workforce, the public disclosure of protected employee compensation information would unfairly harm Fleming-Mason's competitive position in the marketplace for utility management and other skilled workers. KRS 61.878(1)(c). This information for which Fleming-Mason requests confidential treatment warrants protection from open viewing and distribution.

Under 807 KAR 5:001 Section 13 the wage information is clearly confidential pursuant to KRS 61.878(a) and (c). As the confidential information in the document is so pervasive that redaction would be impractical, Fleming-Mason requests to be permitted to file the entire excel document containing the salary and overtime information of employees under seal as confidential information.

In accordance with the provisions of 807 KAR 5:001 Section 13(2), Fleming-Mason respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten (10) years. However, Fleming-Mason reserves the right to extend this timeframe if necessary.

If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Fleming-Mason will notify the Commission and seek

to have confidential protection removed, pursuant to 807 KAR 5:001 Section 13(10).

This 19th day of January, 2024.

Respectfully submitted,

CAMPBELL ROGERS & STACY PLLC
ATTORNEYS AT LAW
154 FLEMINGSBURG ROAD
MOREHEAD, KY 40351
(606) 783-1012
(606) 784-8926 FAX
earl@campbellrogers.com

BY: 

EARL ROGERS III
ATTORNEY FOR FLEMING-MASON
ENERGY COOPERATIVE, INC.

CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Kentucky Public Service Commission for filing on January 19th, 2024; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; by virtue of the Commission's Order of July 22, 2021, in case number 2020-00085, no paper copies of this filing will be made.



EARL ROGERS III
ATTORNEY FOR
FLEMING-MASON ENERGY COOPERATIVE, INC.