

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**ELECTRONIC APPLICATION OF KENERGY CORP.)
FOR AN ADJUSTMENT OF RATES)**

CASE NO. 2023-00276

**AMENDED PETITION FOR ORDER ISSUING
KENERGY CORP. CONFIDENTIAL PROTECTION AS TO CERTAIN RESPONSES
TO THE ATTORNEY GENERAL'S DATA REQUESTS**

1. **KENERGY CORP.** (Kenergy") hereby amends its petition previously filed with the Kentucky Public Service Commission (Commission"), pursuant to 807 KAR 5:001 Section 13, and KRS 61.878(1)(c), to grant confidential protection to certain information Kenergy is filing with its responses to the Attorney General's ("AG") Initial Data Requests for Information. The information for which Kenergy seeks confidential treatment is hereinafter referred to as the "Confidential Information."

2. The Confidential Information includes responses to Item 24, 25(i), & (o) and 59 of the AG's Initial Requests for Information.

Kenergy seeks confidential protection for Item 24, a request for information about regional bidding and steps to limit vegetation management contract costs. Filed with this Petition is a study by Big Rivers Electric Corporation ("Big Rivers") to explore the concept of shared costs by Big Rivers of a conceptual vegetation management program for the member owners of Big Rivers. A cost analysis of a conceptual shared cost vegetation management program would provide Kenergy's proprietary and internal information to the

public. This could be used by future vegetation management contractors to Kenergy's detriment in formulating bids.

Item 25(i) Bid Pricing for all circuit miles to be trimmed in 2022 and 2023. The response to this includes documents received from the following unsuccessful bidders: Integrity, and Nelson. Although Asplundh was not initially a successful bidder, Kenergy utilized Asplundh's time and labor rate bids for storm work and broadband vegetation management. The Asplundh documents are being filed in the public record. As recognized by the Commission in Order entered October 20, 2023, in Case No. 2023-00147, Kenergy desires to keep confidential the entire bid package received from each unsuccessful vendor.

Item 25(o) Documents prepared to compare ROW bidders and recommended winning bids, and these documents disclose unsuccessful bids. As stated above, allowing all the bids to be public puts Kenergy at disadvantage in future bids.

Item 59 – Kenergy employees', salaries, raises and bonuses. Kenergy also proposes to keep confidential the Response to Item 59 regarding Kenergy employees' salaries, raises and bonuses. The Commission granted Kenergy's Petition for Confidentiality on salary matters in its Order of October 31, 2023, and Kenergy submits that the same reasoning applies to the Responses to Item 59.

3. One (1) copy of the paper attachments with the confidential information underscored, highlighted with transparent ink, printed on yellow paper, or otherwise

marked “CONFIDENTIAL,” is being submitted to the Executive Director with this petition by email.

4. A copy of this petition without the Confidential Information has been served on all parties to this proceeding. See 807 KAR 5:001 Section 13(2)(c).

5. The Confidential Information is not publicly available, is not disseminated within Kenergy except to those employees and professionals with a legitimate business need to know and act upon the information, and is not disseminated to others without a legitimate need to know and act upon the information.

6. If and to the extent the Confidential Information becomes generally available to the public, whether through filings required by other agencies or otherwise, Kenergy will notify the Commission in writing. See 807 KAR 5:001 Section 13(10)(b).

7. As discussed below, the Confidential Information is being submitted confidentially pursuant to 807 KAR 5:001 Section 13(9)(a) and/or is entitled to confidential protection based upon KSR 61.878(1)(c)(1). 807 KAR 5:001 Section 13(2)(a)(1).

I. Information Protected by KRS 61.878(1)(c)(1)

A. Kenergy’s Vendors Face Actual Competition

8. KRS 61.878(1)(c)(1) 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.”

9. Kenergy’s vendors compete in the vegetation management market. The information sought to be protected is proprietary and if disclosed would subject the vendor to unfair competition and would hamper Kenergy’s ability to obtain competitive bids.

10. As such, the Confidential Information is generally recognized as confidential and proprietary.

II. Time Period

11. Kenergy requests that the Confidential Information remain confidential for a period of five (5) years from the date of this petition, which should allow sufficient time for the projected data to become historical and sufficiently outdated that it could not be used to determine similar confidential information that time or to competitively disadvantage to Kenergy’s vendors.

III. Conclusion

12. Based on the foregoing, the Confidential Information is entitled to confidential protection. If the Commission disagrees that Kenergy is entitled to confidential protection, due process requires the Commission to hold an evidentiary

hearing. *Utility Regulatory Com'n v. Kentucky Water Service Co., Inc.*, 642 S.W.2d 591 (Ky. App. 1982).

WHEREFORE, Kenergy respectfully requests that the Commission classify and protect as confidential the Confidential Information.

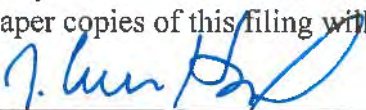
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing electronic filing was transmitted to the Kentucky Public Service Commission for filing on December 13, 2023; that same was electronically sent to Michael West, MICHAEL.WEST@KY.GOV; 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 2020-00085, no paper copies of this filing will be made.



J. Christopher Hopgood
Counsel for Kenergy Corp.

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SUPPLEMENT TO PETITION FOR CONFIDENTIALITY

AS TO ATTORNEY GENERAL'S DATA REQUESTS

Petitioner **KENERGY CORP** supplements its petition for confidential treatment filed on November 14, 2023, with the following list of documents for which confidential protection is sought along with documents filed herewith where confidential protection is not sought.

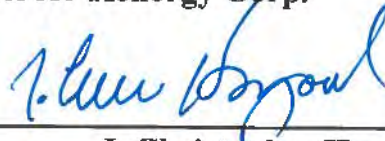
Attorney General Data Request – Documents for which confidential protection is sought:

Attorney General
Item No.

- | | |
|---------|--|
| 24 | Big Rivers Shared Cost Vegetation Management Study |
| 25(i) | <u>Bidding information –unsuccessful bidders:</u>
Integrity bid documents
Nelson bid documents |
| 25(o) | Bid comparison summary 2022 |
| 59(a) | Kenergy Salaried Employees (2013-23) Excel file |
| 59(b-j) | Kenergy employee raise, incentive & benefit information Pages 3-8 |

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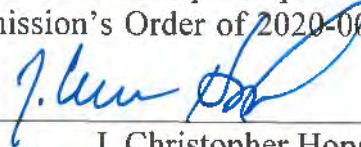
By



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing electronic filing was transmitted to the Kentucky Public Service Commission for filing on December 17, 2023; that same was electronically sent to Michael West, MICHAEL.WEST@KY.GOV; 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 2020-00085, no paper copies of this filing will be made.



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