

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF LICKING)	
VALLEY RURAL ELECTRIC COOPERATIVE)	
CORPORATION FOR A GENERAL ADJUSTMENT)	CASE NO.
OF RATES)	2024-00211

MOTION FOR CONFIDENTIAL TREATMENT

Comes now Licking Valley Rural Electric Cooperative Corporation (“Licking Valley”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment for attachments filed with the Responses to Commission Staff’s Second Request for Information (Staff’s Second Request) and Responses to the Attorney General’s First Request for Information (Attorney General’s First Request), and respectfully states as follows:

1. On August 8, 2024, Licking Valley filed an application for a general adjustment of rates. On September 4, 2024, Commission Staff issued its Second Request for Information and the Attorney General’s Office issued its First Request for Information. Licking Valley is filing responses to Staff’s Second Request and the Attorney General’s First Request contemporaneously with this Motion.

2. Licking Valley requests the Commission to afford confidential protection to certain information being filed in the attachments to the response to Staff’s Second Request, Item 19(b) and in the attachments to the Attorney General’s First Request, Item 4 and Item 5. These items

are referred to herein collectively as the “Confidential Information” for which protection is sought under KRS 61.878(1)(a) and KRS 61.878(1)(c)(1).

3. The Response to Staff’s Second Request, Item 19(b) requested a wage and salary study conducted by a third-party consultant. The employee-specific wage and salary information provided in response to Item 19(b) of Staff’s Second Request is clearly private information and is commercially valuable. The Confidential Information is proprietary information that is retained by Licking Valley on a “need-to-know” basis and is only distributed by Licking Valley 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.

4. The Confidential Information in the Attachment AG 1-4(a)-(g) to the Response to Attorney General’s First Request, Item 4 and the Attachment AG 1-5(a)-(g) to the Response to Attorney General’s First Request, Item 5 both contain the job titles of Licking Valley employees and their salaries. Disclosure of the Confidential Information would permit an unfair commercial advantage to third parties or present an unnecessary and unreasonable infringement upon Licking Valley’s employees legitimate personal privacy concerns.

5. KRS 61.878(1)(a) permits confidential treatment of records that are personal in nature and that would constitute an unwarranted invasion of personal privacy. 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.” 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).

6. If the wage and salary study was disclosed, Licking Valley would be at a competitive disadvantage because other cooperatives would know the basis of Licking Valley's salary decisions. If the job titles of the Licking Valley employees are disclosed, anyone viewing the information would know the salary of all the employees because Licking Valley is a small cooperative. This disclosure would be an unwarranted invasion of personal privacy for the employees. Additionally, the Commission has granted confidential treatment for job titles for small cooperatives in the past.¹ For these reasons, the Confidential Information satisfies both the statutory and common law standards for affording confidential treatment.

7. The Confidential Information consists of sensitive and proprietary information that is retained by Licking Valley on a "need-to-know" basis. The Confidential Information is distributed within Licking Valley only to those employees who must have access for business reasons and is generally recognized as confidential and proprietary in the industry.

8. Licking Valley does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure agreement, to intervenors with a legitimate interest in reviewing same for the sole purpose of participating in this case. Licking Valley reserves the right to object to providing the Confidential Information to any intervenor if said provision could result in liability to Licking Valley under any Confidentiality Agreement or Non-Disclosure Agreement.

¹ Case No. 2023-00147, *Electronic Application of Taylor County Rural Electric Cooperative Corporation for a General Adjustment of Rates*, November 27, 2023 Order (Ky. PSC November 27, 2023); Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of a Depreciation Study, and Other General Relief*, March 28, 2022 Order (Ky. PSC March 28, 2022); Case No. 2021-00129, *Application of Inter-County Energy Cooperative Corporation for a General Adjustment of Existing Rates*, September 7, 2022 Order (Ky. PSC September 7, 2022).

9. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Licking Valley is filing separately under seal one (1) unredacted copy of the Confidential Information. Licking Valley is not providing a redacted copy of the attachment to Staff's Second Request, Item 19 because the confidential information is so pervasive it cannot be redacted. Licking Valley is filing a copy of the documents in redacted form of the attachments to the Attorney General's First Request, Items 4 and 5.

10. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Licking Valley respectfully requests that the Confidential Information be withheld from public disclosure for a period of ten year.

11. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, Licking Valley will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10).

WHEREFORE, on the basis of the foregoing, Licking Valley respectfully requests that the Commission classify and protect as confidential the Confidential Information described herein for a period of ten years.

This 18th day of September 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission on September 18, 2024, and that there are no parties that the Commission has excused from participation by electronic means in this proceeding. Pursuant to prior Commission Orders, no paper copies of this filing will be made.

Heather S. Temple

Counsel for Licking Valley RECC