

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF JACKSON ENERGY)	CASE NO.
COOPERATIVE CORPORATION FOR AN)	2013-00219
ADJUSTMENT OF RATES)	

ORDER

The matter is before the Commission upon two motions filed by Jackson Energy Cooperative Corporation (“Jackson Energy”), pursuant to 807 KAR 5:001, Section 13, seeking confidential treatment of the terms and provisions of a purchase power contract¹ entered into between Jackson Energy and Wellhead Energy Systems, LLC² (“Wellhead”). The terms and provisions at issue in the motions include the rates to be paid by Jackson Energy. Jackson Energy contends that Wellhead, as a private corporation, insisted that Jackson Energy agree to keep the contract and the terms of the contract confidential. Jackson Energy further states that Wellhead believes disclosure of the contract and its terms would result in an unfair commercial advantage to Wellhead’s competitors. Jackson Energy argues that the subject information is exempt from public disclosure pursuant to KRS 61.878(1)(c)(1).

Jackson Energy asserts that the contract and its terms are proprietary and that no significant public interest exists in favor of the disclosure of the information. Jackson

¹ One motion requests confidential treatment of the cost of purchased power in response to the Commission Staff’s First Request for Information, Item 19. The other motion requests confidential treatment of the entire contract in response to the Commission Staff’s Fourth Request for Information, Item 12. Both motions were filed on December 11, 2013, pursuant to 807 KAR 5:001, Section 8.

² Both motions incorrectly indicate the contract is with Wellhead Energy Systems, Inc.

Energy further asserts, on Wellhead's behalf, that disclosure of the contract and its terms would impair Wellhead's ability to negotiate with other utilities and would give competitors an unfair commercial advantage.

Having reviewed the motions and being otherwise sufficiently advised, the Commission finds that Jackson Energy has failed to establish that the information identified in its two motions is entitled to confidential treatment pursuant to KRS 61.878(1)(c)(1), which states, in full, as follows:

Upon and after July 15, 1992, 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;

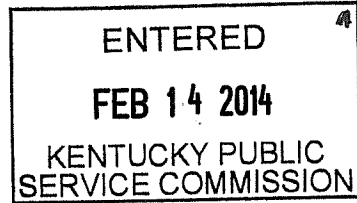
(Emphasis added).

In order to be exempted from the scope of the Kentucky Open Records Act, KRS 61.870 *et seq.*, KRS 61.878(1)(c)(1) requires the entity seeking confidential treatment to establish competitive harm to it if the information sought to be protected is publicly disclosed. In its motions for confidentiality, Jackson Energy has argued that disclosing the contract terms would result in an unfair commercial advantage to competitors of Wellhead. Nowhere in the motions does Jackson Energy contend that public disclosure of the terms of the Wellhead contract would permit an unfair commercial advantage to Jackson Energy's competitors. Accordingly, the provisions of the Wellhead contract are not entitled to confidential treatment. Lastly, Jackson Energy is seeking to recover the costs associated with the Wellhead contract in this rate case. Jackson Energy's ratepayers have a right to know the actual costs of the power that they are purchasing,

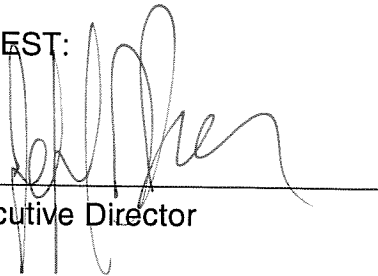
and they have a right to know the evidence upon which the Commission relied in determining that the costs of the Wellhead contract are fair, just, and reasonable.

IT IS THEREFORE ORDERED that Jackson Energy's motions for confidentiality filed December 11, 2013, are denied.

By the Commission



ATTEST:



Executive Director

Case No. 2013-00219

James R Adkins
Jim Adkins Consulting
1041 Chasewood Way
Lexington, KENTUCKY 40513-1731

Lisa Baker
Jackson Energy Cooperative Corporation
115 Jackson Energy Lane
McKee, KY 40447

Mark Keene
Finance & Accounting Manager
Jackson Energy Cooperative Corporation
115 Jackson Energy Lane
McKee, KY 40447