

September 1, 2017

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PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY

Mr. John S. Lyons
Acting Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602

Re: IN THE MATTER OF: JACKSON PURCHASE ENERGY CORPORATION
ALLEGED FAILURE TO COMPLY WITH KRS 278.042
Case No. 2017-00202

Mr. Lyons:

Please find enclosed and accept for filing on behalf of Jackson Purchase Energy Corporation ("JPEC") a redacted original and ten (10) redacted copies of JPEC's Response to Commission Staff's Post-Hearing Request for Information propounded August 18, 2017 (including ten (10) identical compact discs). Also enclosed is a sealed envelope marked "Confidential" containing a paper-medium copy of the confidential information within JPEC's Response. Finally, enclosed are an original and ten (10) copies of a Motion for Confidential Treatment/Motion for Deviation from Filing Requirements concerning the Response. Please return a file-stamped copy of this filing to me.

I appreciate your assistance with this matter, and please do not hesitate to contact me with any questions or concerns.

Respectfully submitted,



Mark David Goss

Enclosures

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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

JACKSON PURCHASE
ENERGY CORPORATION

ALLEGED FAILURE TO COMPLY
WITH KRS 278.042

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CASE NO. 2017-00202

**MOTION FOR CONFIDENTIAL TREATMENT
and
MOTION FOR DEVIATION FROM FILING REQUIREMENTS**

Comes now Jackson Purchase Energy Corporation (“JPEC”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001 Section 13, Section 22, and other applicable law, and respectfully moves the Commission: (i) to afford confidential treatment to certain portions of JPEC’s Response to the Post-Hearing Request for Information propounded by Commission Staff in the above-captioned proceeding on August 18, 2017; and (ii) to permit JPEC to deviate from applicable requirements which prescribe the filing of multiple paper copies of all documents tendered with its Response. In support of these Motions, JPEC respectfully states as follows:

1. Following the hearing held in this matter on August 15, 2017, Commission Staff propounded its Post-Hearing Request for Information on August 18, 2017. JPEC is filing its Response to this request for information contemporaneously herewith.

2. Pursuant to Commission regulation and in accordance with law, JPEC requests that the Commission afford confidential treatment to the following proprietary, personal, confidential, sensitive, and commercially valuable information (collectively, the “Confidential Information”):

a. the personally identifiable employee information (including date of birth, Social Security number, and phone and address information) that is contained at Pages 8, 52, and 53 of JPEC’s Response to Item No. 4 of Commission Staff’s Post-Hearing Request for Information;

b. the employee-specific compensation information that is contained at Page 8 and Pages 79 through 88 of JPEC’s Response to Item No. 4 of Commission Staff’s Post-Hearing Request for Information;

c. the personally identifiable customer information (including names, addresses, and phone numbers) contained at Pages 394 and 395; and

d. the user-specific log-in information with respect to the Commission’s online Outage Reporting Program that is contained at Page 4 of JPEC’s Response to Item No. 6 of Commission Staff’s Post-Hearing Request for Information.

3. The Confidential Information includes private, personally identifiable information concerning individuals served and employed by JPEC. The public disclosure of such sensitive information, which is undoubtedly of a personal nature, would constitute a clearly unwarranted invasion of personal privacy.

4. JPEC’s customers and employees reasonably expect that their home address, telephone number, and other identifying information will not be publicly disseminated, particularly when that information is entirely immaterial to the proceeding in which it is filed. Moreover, because JPEC competes with numerous other employers with respect to the acquisition and retention of a quality workforce, the public disclosure of the delicate and protected employee

identity and compensation information contained in JPEC's Response would unfairly harm JPEC's competitive position in the marketplace. Finally, JPEC's username and password for the Commission's online Outage Reporting Program is clearly sensitive information that should not be generally available outside of JPEC.

5. The Confidential Information is proprietary information that is retained by JPEC on a "need-to-know" basis. The Confidential Information is distributed within JPEC only to those positions who must have access for business reasons, and is generally recognized as confidential and proprietary in the energy industry.

6. The Kentucky Open Records Act and applicable precedent exempts the Confidential Information from disclosure. *See* 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). The public disclosure of the Confidential Information would potentially harm JPEC's competitive position in the marketplace, to the detriment of JPEC and its customers. Additionally, all of the Confidential Information is private, personal, and publicly unavailable and its confidentiality is critical to JPEC'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.

7. In accordance with the provisions of 807 KAR 5:001, Nolin is filing under seal with confidentiality denoted one (1) unredacted copy of the Confidential Information. Copies of the redacted versions of the Confidential Information are also being filed by Nolin as part of its Response.

8. In accordance with the provisions of 807 KAR 5:001, Section 13(2), and because the confidential nature of the personally identifiable customer and employee information

referenced herein is not expected to change during any specific timeframe, JPEC respectfully requests that the Confidential Information be withheld from public scrutiny indefinitely.

9. If, and to the extent, the Confidential Information becomes publicly available or otherwise no longer warrants confidential treatment, JPEC will notify the Commission if it becomes aware of such fact and will seek to have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10).

10. Pursuant to 807 KAR 5:001 Section 7(1), Section 13(2)(a)(3), and the instructions contained in Commission Staff's Post-Hearing Request for Information, JPEC is required to file with the Commission an original and ten (10) copies of its Response in paper medium.

11. Item No. 4 of Commission Staff's Post-Hearing Request for Information requests JPEC to provide "copies of all communications Jackson Purchase has made to the Kentucky Labor Cabinet in connection with the fatality of Joshua Franklin, including notices of intent to contest citations and notifications of penalties." JPEC is providing all relevant documents in its possession, and they total over five-hundred sixty (560) pages.

12. Due to their voluminous nature, and for good cause shown, JPEC respectfully requests permission, pursuant to 807 KAR 5:001 Section 22, to deviate from the requirements regarding paper-medium submissions and instead be allowed to file one (1) original, in paper medium, of the documents attached to Item No. 4 of Commission Staff's Post-Hearing Request for Information (*i.e.*, Pages 2 through 568) and ten (10) copies, in electronic medium, of the same documents (on ten (10) identical compact discs).

WHEREFORE, on the basis of the foregoing, JPEC respectfully requests that: (i) the Commission classify and protect as confidential the specific Confidential Information described herein for an indefinite period; (ii) the Commission grant the limited deviation from filing requirements herein requested by JPEC; and (iii) grant JPEC all other relief to which it may appear entitled.

Dated this 1st day of September, 2017.

Respectfully submitted,



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