

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO THE)	
MANAGEMENT AND OPERATION OF GRAYSON)	CASE NO.
RURAL ELECTRIC COOPERATIVE)	2019-00101
CORPORATION)	

ORDER

The matter arises upon the motion of the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), requesting contemporaneous access to the discovery responses provided by Grayson Rural Electric Cooperative Corporation (Grayson RECC) to the consultant tasked with performing the management audit of Grayson RECC in this case. The Attorney General also requests contemporaneous access to the consultant's workpapers.

In support of the motion, the Attorney General states the April 29, 2019 Order granting the Attorney General intervention permits the Attorney General to have access to all evidence and information that is filed into the record of this matter, including all workpapers and documents reviewed by the consultant. The Attorney General also states that he does not seek to disrupt or complicate the proceedings. The Attorney General maintains that having timely access to the discovery responses and workpapers, which may not be filed into the record until the final report is submitted by the consultant, will ensure that the Attorney General has meaningful participation in this proceeding. Keeping the Attorney General apprised of the developments in the audit process will assist in any decision he might take as to the filing of comments or participating in an

interview with the consultant. Lastly, the Attorney General notes that he is willing to execute a confidentiality agreement with Grayson RECC to protect any information in the materials that may be considered confidential.

In its response to the Attorney General's motion, Grayson RECC pointed out that the Attorney General's request is to have access to all materials requested by or provided to the consultant by Grayson RECC at the time such materials are provided, rather than in the ordinary course of the audit. Grayson RECC requests that the Commission's decision on this motion should be guided by the concern in its April 29, 2019 Order that the participation of the Attorney General in this matter not complicate, disrupt, lengthen or increase the cost of this process. To the extent the Attorney General's motion is granted, Grayson RECC recommends that the Commission place two conditions that should be followed by the parties. First, Grayson RECC requests that the Attorney General be required to enter into a non-disclosure agreement, the terms of which should be agreeable to both Grayson RECC and the Attorney General. Should the parties fail to agree on the terms of a non-disclosure agreement, Grayson RECC recommends that the Commission should decide the specifics of such an agreement. Second, Grayson RECC states that its right to object to the disclosure of any information should be preserved and that any discovery disputes should be resolved by the Commission.

On reply, the Attorney General informs that he has provided Grayson RECC a draft confidentiality agreement that the Attorney General would protect from disclosure any information that is sought to be kept confidential by Grayson RECC up to and until the Commission makes its determination as to whether the information should be afforded confidential treatment.

Having reviewed the motion, the response and reply to the motion, and being otherwise sufficiently advised, the Commission finds that the Attorney General has established good cause to permit him to have immediate access to the discovery responses that have been provided by Grayson RECC to the audit consultants. Because the audit report has not been completed and finalized, the Attorney General's request for contemporaneous access to the audit consultant's workpapers is denied. The consultant's workpapers will be provided to the parties and included in the record of this matter once the consultant has submitted a final report in this matter.

Regarding the conditions that Grayson RECC requests be placed upon the parties, the Commission notes that the Attorney General has tendered a draft confidentiality agreement to Grayson RECC, which addresses Grayson RECC's concerns with respect to how its confidential data should be treated by the Attorney General. Should the parties not agree to the terms of the confidentiality agreement then the Commission will retain jurisdiction to resolve any such dispute. As to the second condition, the Commission notes that Grayson RECC has not waived its right to object to the disclosure of any discovery information and that such right is inherent to Grayson RECC. As always, the Commission retains authority to resolve any discovery disputes between parties in a proceeding before the Commission.

IT IS THEREFORE ORDERED that:

1. The Attorney General's motion to contemporaneously receive access to workpapers and responses to the consultant's data requests is granted in part and denied in part.

2. The Attorney General's request to have contemporaneous access to the responses provided by Grayson RECC to the consultant's discovery requests is granted.

3. Within five days of the date of this Order and subject to the parties entering into a confidential agreement, Grayson RECC shall provide the Attorney General the responses to the consultant's discovery requests.

4. The Attorney General's request to have contemporaneous access to the workpapers of the consultant is denied. The consultant's workpapers will be placed into the record of this matter once the consultant has issued a final report on this audit.

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By the Commission

ENTERED
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2019-00101

*Clayton O Oswald
Taylor, Keller & Oswald, PLLC
1306 West Fifth Street, Suite 100
Post Office Box 3440
London, KENTUCKY 40743-3440

*Justin M. McNeil
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Grayson R.E.C.C.
109 Bagby Park
Grayson, KY 41143

*Grayson R.E.C.C.
Grayson R.E.C.C.
109 Bagby Park
Grayson, KY 41143