

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JACKSON)	
PURCHASE ENERGY CORPORATION FOR A)	CASE NO.
CERTIFICATE OF PUBLIC CONVENIENCE AND)	2019-00326
NECESSITY TO CONSTRUCT A NEW)	
HEADQUARTERS FACILITY)	

ORDER

On July 22, 2021, Jackson Purchase Energy Corporation (Jackson Purchase) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an unspecified period for eight documents constituting the as-built drawings for the construction of its headquarters facility, provided in response to the Commission’s January 14, 2020 Order. Jackson Purchase also sought a deviation from any requirement that these drawings be filed in paper form.

In support of its motion, Jackson Purchase argued that the as-built drawings were exempt from public disclosure pursuant to KRS 61.878(1)(m). This portion of the Open Records Act exempts “[p]ublic records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act”¹ The exemption is limited to certain types of records, including:

Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication,

¹ KRS 61.878(1)(m)(1).

electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems.²

A terrorist act is defined as including a criminal act intended to “[d]isrupt a system” identified in the above.³

Jackson Purchase alleged that the as-built drawings of its headquarters building contain:

[L]ocations of certain extremely sensitive and vulnerable building infrastructure, including private entrances and exits utilized by Jackson Purchase staff and employees, critical infrastructure such as the locations of essential building utilities including electrical, gas, water, fire suppression, ventilation, security and other essential systems, information technology closets, internal meeting rooms and communications, dispatch and operations centers, and storage areas containing expensive and potentially dangerous equipment and supplies necessary to maintain service reliability throughout the Cooperative's distribution system.⁴

Jackson Purchase asserted that these systems, if subject to public disclosure, could be used to harm staff and physical structures in the headquarters or the customers of Jackson Purchase.

Having considered the motion and the material at issue, the Commission finds that Jackson Purchase's motion is granted. The as-built drawings for Jackson Purchase's headquarters building, if publicly disclosed, would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act disrupting public utility critical systems. The

² KRS 61.878(1)(m)(1)(f).

³ KRS 61.878(1)(m)(2)(b).

⁴ Jackson Purchase Energy Corporation's Motion for Deviation from Post-Completion Filing Requirements in Final Order and from 807 KAR 5:001, Section 13(2) and Motion for Confidential Treatment of Vulnerable Critical Infrastructure Information at unnumbered at 2.

Commission has previously granted confidential treatment to as-built drawings of utility infrastructure pursuant to KRS 61.878 for an undetermined period.⁵ The Commission finds that disclosure might enable destruction or disabling of parts of an electric utility provider's headquarters, specifically information technology systems, operations centers, or maintenance equipment located at the headquarters, resulting in disruption of electric service. This information therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(m).

The Commission also finds that Jackson Purchase's motion for deviation is granted and that Jackson Purchase may need not file any paper copies of the as-built drawings pursuant to the Commission's current rules mandating electric filing.⁶

IT IS THEREFORE ORDERED that:

1. Jackson Purchase's motion for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

⁵ Case No. 2014-00258, *Application of Kentucky-American Water Company for a Certificate of Convenience and Necessity Authorizing the Construction of Richmond Road Station Filter Building Improvements* (Ky. PSC May 4, 2019), Order.

⁶ See Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Mar. 16, 2020), Order at 8.

4. Jackson Purchase shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Jackson Purchase shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Jackson Purchase is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Jackson Purchase to seek a remedy afforded by law.

By the Commission



ATTEST:


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