

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SALT RIVER ELECTRIC	)	
COOPERATIVE CORPORATION FOR AN	)	
ORDER ISSUING A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY CONSTRUCT	)	2019-00399
AN ADVANCED METERING INFRASTRUCTURE	)	
(AMI) SYSTEM PURSUANT TO KRS 807 KAR 5:001	)	
AND KRS 278.020	)	

ORDER

On October 30, 2019, Salt River Electric Cooperative Corporation (Salt River) filed a petition, pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, requesting that the Commission grant confidential protection to portions of its application, including exhibits, (Application) for a Certificate of Public Convenience and Necessity (CPCN) for an advanced metering infrastructure (AMI) system for a period of ten years. The designated materials consist of the following exhibits to the Application:

- Appendix A: the total cost and individual component pricing for the advanced metering infrastructure (AMI) system that Salt River proposes to install.
- Appendix B: Comparisons of bids from the five vendors who bid on the proposed AMI project.
- Appendix C: reoccurring costs to operate and maintain the proposed AMI system.
- Appendix D: the estimated total cost of Salt River's construction work plan (CWP) for 2019-2022.

As a basis for its motion, Salt River stated that public disclosure of the designated materials could permit an unfair advantage to Salt River's competitors and to competitors of the AMI system vendor, Aclara. Salt Rivers further states that Aclara and Salt River agreed to keep pricing for the products and services confidential.

The Commission notes that KRS 61.878 covers a broad range of types of records that are exempt from public disclosure, and that Salt River failed to indicate which subpart of KRS 61.878 applies to its request. It appears that Salt River seeks confidential treatment under KRS 61.878(1)(c)(1), which exempts records that, if publicly disclosed, would permit an unfair commercial advantage to competitors.

Having carefully considered the petition and the materials at issue, the Commission finds as follows:

1. Salt River's request for confidential treatment of the designated materials in the Application, Appendices A, C, and D, and the information specific to Aclara in Appendix B should be denied because the designated materials do not meet the criteria for confidential treatment under 807 KAR 5:001, Section 13, or KRS 61.878(1)(c)(1). First, the designated materials in Appendices A, C, and the information specific to Aclara in Appendix B concern the costs of the proposed AMI system that the Commission will fully and specifically address in regard to the cost impact in the Commission's final determination of this matter. Salt River's owner-member customers have a right to know the evidence upon which the Commission relied in determining whether to approve construction of the proposed AMI system. Second, the designated materials in Appendices A and D, and the information specific to Aclara in Appendix B, are publicly available in the Commission's Staff Opinion 2017-013, which was issued on October 9,

2019, prior to Salt River filing its Application in this matter. Third, Salt River is a utility that provides retail electric service within a certified territory in which, pursuant to KRS 278.016 to KRS 278.018, no other retail electric supplier can furnish retail electric service. Thus, Salt River has not shown that it has competitors. Fourth, the Open Records Act, KRS 61.878(1)(c)(1), exempts from public disclosure records that are “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.” Here, Salt River is the entity disclosing the records, not the vendor. Any assertion of an unfair commercial advantage to competitors of the vendor would have to be asserted by the vendor, not by Salt River.

2. The designated materials in the Application, Appendix B, with the exception of the information related to Aclara, are records that are generally recognized as confidential or proprietary and, therefore, meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. Salt River’s motion for confidential treatment filed on October 30, 2019, is granted in part and denied in part.

2. Salt River’s motion for confidential treatment for the designated materials in the Application, Appendix B, with the exception of the information related to Aclara, is granted.

3. Salt River's motion for confidential treatment for the designated materials in the Application, Appendices A, C, and D, and the information related to Aclara in Appendix B, is denied.

4. The designated materials for which confidential treatment was granted shall not be placed in the public record or made available for public inspection for a period of ten years, or until further Orders of the Commission.

5. Use of the designated materials for which confidential treatment was granted in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

6. Salt River shall inform the Commission if the designated materials for which confidentiality was granted become publicly available or no longer qualify for confidential treatment.

7. If a non-party to this proceeding requests to inspect designated materials for which confidential treatment was granted by this Order and the period during which the materials have been granted confidential treatment has not run, then Salt River shall have 30 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878(1)(c)(1). If Salt River is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

8. The Commission shall not make the designated materials for which confidential treatment was granted available for inspection for 30 days following an Order

finding that the materials no longer qualify for confidential treatment in order to allow Salt River to seek a remedy afforded by law.


9. Within 30 days of the date of entry of this Order, Salt River shall file a revised version of the designated materials for which confidential protection was denied, reflecting as unredacted the information that has been denied confidential treatment.

10. The designated materials for which Salt River's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of entry of this Order in order to allow Salt River to seek a remedy afforded by law.

By the Commission

ENTERED  
JAN 06 2020  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

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

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

\*Salt River Electric Cooperative Corp.  
111 West Brashear Avenue  
P. O. Box 609  
Bardstown, KY 40004

\*Tim J Sharp  
Salt River Electric Cooperative Corp.  
111 West Brashear Avenue  
P. O. Box 609  
Bardstown, KY 40004