

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO THE	)	
OPERATIONAL CAPACITY AND	)	CASE NO.
INFRASTRUCTURE OF GRAYSON RURAL	)	2020-00018
ELECTRIC COOPERATIVE CORPORATION	)	

ORDER

On October 15, 2021, Grayson Rural Electric Cooperative Corporation (Grayson RECC) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period for information redacted from exhibits to a status update filed in this post-audit investigation case as ordered by the Commission.<sup>1</sup>

In support of its motion, Grayson RECC argued that these exhibits should be granted confidential treatment under KRS 61.878(1)(c)(1) which exempts from public disclosure “[r]ecords 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.” Other applicable subsections include KRS 61.878(1)(a) which exempts “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy”

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<sup>1</sup> Case No. 2019-00101, *Electronic Investigation Into the Management and Operation of Grayson Rural Electric Cooperative Corporation* (Ky. PSC Jan. 21, 2021), Order at 3.

and KRS 61.878(1)(j) which exempts “[p]reliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended.”

Grayson RECC sought confidential treatment for redacted portions of Exhibit A to its status report, consisting of a report of forecasted aggregate employee cost data compiled by third-party Cooperative Finance Corporation (CFC). Grayson RECC also requested confidential treatment of Exhibit F, which is a planning report also prepared by CFC. Grayson RECC argued that these reports are proprietary to CFC, which asked that these documents remain confidential.

Grayson RECC also asked for confidential treatment for Exhibit C which consists of logs of customer complaints, including names and personal identifying information, which Grayson RECC stated raises privacy concerns if disclosed publicly.

Lastly, Grayson RECC sought confidential treatment for Exhibit J, which is a redacted portion of an excerpt from meeting minutes from the Grayson RECC Board of Directors’ executive session discussing merger opportunities. Grayson RECC argued that discussions during an executive session should remain confidential unless the Board acts upon those discussions to prevent customers from becoming alarmed and confused should they learn such discussions have occurred.

Having considered the motion and the material at issue, the Commission finds that Grayson RECC’s motion for confidential treatment is granted. The redacted portions of Exhibits A and F are proprietary reports prepared by a third party and should be indefinitely protected from public disclosure.<sup>2</sup> Grayson RECC’s ability to obtain this type

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<sup>2</sup> See Case No. 2018-00358, *Electronic Application of Kentucky American Water Company for an Adjustment of Rates* (Ky. PSC Mar. 14, 2019), Order at 2.

of information in the future is dependent on maintaining the confidentiality of such proprietary data. The report contained in Exhibit F also constitutes internal business planning, which the Commission has previously exempted from disclosure under KRS 61.878(1)(c)(1).<sup>3</sup> Exhibit C is held indefinitely exempt from public disclosure under KRS 61.878(1)(a) because it contains information of a personal nature in which customers have an expectation of privacy. The Commission grants confidential treatment to Exhibit F for ten years as the Board's meeting minutes constitute preliminary recommendations and memoranda in which opinions are expressed or policies formulated or recommended under the plain language of KRS 61.878(1)(j).

The designated material 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)(a), (1)(c)(1), and (1)(j).

IT IS THEREFORE ORDERED that:

1. Grayson RECC'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 for Exhibits A, C, and F to Grayson RECC's October 15, 2021 status report, and for ten years for Exhibit J, 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).

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<sup>3</sup> Case No. 2016-00370, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates and for Certificates of Public Convenience and Necessity*, (Ky. PSC Dec. 12, 2018), Order at 3, 5.

4. Grayson RECC 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, Grayson RECC 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 Grayson RECC 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 Grayson RECC to seek a remedy afforded by law.

By the Commission



ATTEST:

  
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