

exemptions is applicable.⁴ KRS 61.878(1)(c)(1) provides an exception to the requirement for public disclosure of records that are “generally recognized as confidential and proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

DISCUSSION AND FINDINGS

In support of its petition, Kimberly-Clark argued that the customer-specific pricing information contained in the complaint and Attachment 2 of the complaint contain should be granted confidential protection pursuant to KRS 61.878(1)(c)(1) because if disclosed the information would reveal the total amount paid by Kimberly-Clark and the company’s specific electricity usage. Kimberly-Clark argued this would create an unfair commercial advantage to competitors. Kimberly-Clark also argued this information is normally kept confidential and is not disseminated to others.

Having considered the petition and the material at issue, the Commission finds that customer-sensitive pricing information in the complaint and Attachment 2 of the complaint is generally recognized as confidential or proprietary and it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001E, Section 13, and KRS 61.878(1)(c)(1) because if disclosed Kimberly-Clark could be placed at a disadvantage because others would know its total energy usage and amounts paid to Big Rivers Electric Corporation and Kenergy Corp.

IT IS THEREFORE ORDERED that:

1. Kimberly-Clark’s petition for confidential treatment is granted.

⁴ 807 KAR 5:001E, Section 13(2)(c).

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 five year 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 5:001E, Section 13(9).

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

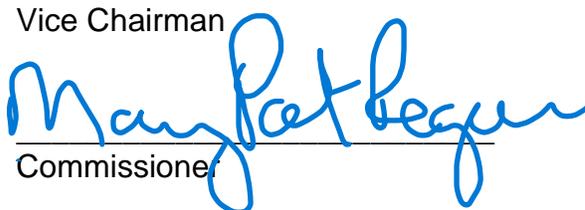
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Kimberly-Clark shall have 30 days from receipt of written notice of the request to demonstrate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

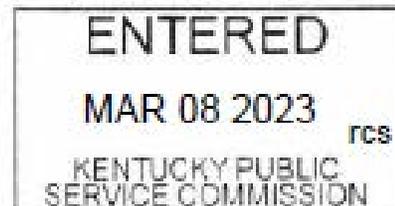
6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Kimberly-Clark to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION


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