

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF TAYLOR)	
COUNTY RURAL ELECTRIC COOPERATIVE)	CASE NO.
CORPORATION FOR A GENERAL ADJUSTMENT)	2023-00147
OF RATES)	

ORDER

On November 9, 2023, Taylor County Rural Electric Cooperative Corporation (Taylor RECC) filed a motion, pursuant to KRS 278.400, requesting reconsideration of the Order entered October 20, 2023, that denied confidential treatment to a response filed with Taylor RECC’s response to Attorney General’s First Request for Information (Attorney General’s First Request), Item 3.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”¹ An order can only be unlawful if it violates a state or federal statute or constitutional provision.² By limiting rehearing to correct material errors or omissions, and findings that

¹ *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

² *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

MOTION

Taylor RECC requested rehearing on one item that was denied confidential treatment in the Commission's October 20, 2023 Order. Taylor RECC argued that the Attachment to Taylor RECC's response to Attorney General's First Request, Item 3, is a spreadsheet containing position and salary information for employees and should have received confidential treatment pursuant to KRS 61.878(1)(a). Taylor RECC argued that the positions make the salaries of certain employees easily identifiable. This identification would be an invasion of personal privacy of its employees. Initially, Taylor RECC requested confidential treatment for the entirety of the positions on the spreadsheet. Upon filing of the motion for rehearing, Taylor RECC left executive positions unredacted.

DISCUSSION AND FINDINGS

Having considered the motion and the material at issue, the Commission finds that Taylor RECC's motion for rehearing should be granted. Further, the Commission finds that the Attachment provided in response to Attorney General's First Request, Item 3, should receive confidential protection pursuant to KRS 61.878(1)(a). In the initial request for confidential treatment, Taylor RECC stated the documents contained compensation information and should be granted confidential treatment.³ Upon motion for rehearing, Taylor RECC identified executive compensation and filed an unredacted information.

³ Taylor RECC's Amended Motion for Confidential Treatment (filed July 19, 2023) at 3.

Although Taylor RECC's motion does not mention precedent, the Commission notes that it has held identifying information related to compensation of small utilities should be given confidential treatment in the past.⁴

IT IS THEREFORE ORDERED that:

1. Taylor RECC's motion for rehearing is granted.
2. Attachment provided in response to Attorney General's First Request, Item 3, should receive confidential protection pursuant to KRS 61.878(1)(a) and shall not be placed in the public record for ten years.
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).
4. Taylor 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, Taylor 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 Taylor 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.

⁴ See Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief* (Ky. PSC Mar. 28, 2022), Order at unnumbered 5-6; Case No. 2018-00129 *Application of Inter-County Energy Cooperative Corporation for a General Adjustment of Existing Rates* (Ky. PSC Sept. 7, 2022), Order.

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 Taylor RECC to seek a remedy afforded by law.

7. The remainder of the October 20, 2023 Order not in conflict with this Order remains in effect.

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PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner



ATTEST:



Executive Director

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