

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	)	2023-00147
ADJUSTMENT OF RATES	)	

ORDER

On August 11, 2023, Taylor County Rural Electric Cooperative Corporation (Taylor RECC) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(m)(1), requesting that the Commission grant confidential treatment for an indefinite period of time for maps of Taylor RECC’s circuits for vegetation management filed in Taylor RECC’s response to Commission Staff’s Third Request for Information (Staff’s Third Request), Item 14.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records “be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884.”<sup>1</sup> Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.<sup>2</sup> The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.<sup>3</sup> KRS 61.878(1)(m)(1) permits an exception for records that if disclosed would have a reasonable likelihood of threatening the public

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<sup>1</sup> KRS 61.872 (1).

<sup>2</sup> See KRS 61.871.

<sup>3</sup> 807 KAR 5:001, Section 12(2)(c).

safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act.<sup>4</sup> The exemption is limited to certain types of records, including:

(f) 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, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems.<sup>5</sup>

(g) the following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps or specifications of structural elements . . . of any building or facility owned, occupied, leased, or maintained by a public agency.<sup>6</sup>

A terrorist act is defined as including a criminal act intended to “[d]isrupt a system” identified in the above.<sup>7</sup>

In support of its motion, Taylor RECC argued that the maps of circuits provided for vegetation management contain critical infrastructure, and, if disclosed, would threaten public safety. Taylor RECC further argued that the maps could be utilized to commit a criminal or terrorist act and disclosure of such information could cause disruptions to services that require electricity and intimidate the civilian population. As such, the maps should be given confidential treatment pursuant to KRS 61.878(1)(m)(1).

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<sup>4</sup> KRS 61.878(1)(m)(1).

<sup>5</sup> KRS 61.878(1)(m)(1)(f).

<sup>6</sup> KRS 61.878(1)(m)(1)(g).

<sup>7</sup> KRS 61.878(1)(m)(2)(b).

Having considered the motion and the material at issue, the Commission finds that the maps of Taylor RECC's circuits for vegetation management filed in Taylor RECC's response to Staff's Third Request, Item 14, contain information regarding critical infrastructure; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(m)(1). Disclosing the maps showing Taylor RECC's circuits would create a risk to public safety. The Commission has previously found that plans containing the physical location of critical infrastructure, like circuits, should be granted confidential treatment.<sup>8</sup>

IT IS THEREFORE ORDERED that:

1. Taylor 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 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).
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

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<sup>8</sup> See Case. No. 2011-00450, *Electronic Investigation of the Reliability Measures of Kentucky's Jurisdictional Electric Distribution Utilities* (Ky. PSC Aug. 23, 2022), Order at 1.

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.

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.

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PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
SEP 28 2023 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

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