

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF FLEMING-	)	CASE NO.
MASON ENERGY COOPERATIVE, INC. FOR A	)	2023-00223
GENERAL ADJUSTMENT OF RATES	)	

ORDER

On October 19, 2023, Fleming-Mason Energy Cooperative, Inc. (Fleming-Mason Energy) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for ten years for Fleming-Mason Energy's response to Commission Staff's First Request for Information (Staff's First Request), Item 17.

In support of its motion, Fleming-Mason Energy argued that the information contained in the compensation plan report created by Intandem LLC, provided in Fleming-Mason Energy's response to Staff's First Request, Item 17 is of a sensitive and personal nature and disclosure would be an unwarranted invasion of privacy. Fleming-Mason Energy further argued it would provide a commercial disadvantage to Fleming-Mason Energy in the work force market.

Having considered the motion and the material at issue, the Commission finds that the compensation plan report created by Intandem LLC, provided in Fleming-Mason Energy's response to Staff's First Request, Item 17 is generally recognized as confidential or proprietary; 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)(c)(1). The Commission has previously found that similar reports conducted by third parties, such as Intandem LLC, should be afforded confidential treatment, because disclosure could put competitors at an advantage for hiring and retaining employees<sup>1</sup>.

IT IS THEREFORE ORDERED that:

1. Fleming-Mason Energy'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 ten years 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. Fleming-Mason Energy 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, Fleming-Mason Energy 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 Fleming-Mason Energy is unable to make such demonstration, the requested material

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<sup>1</sup> See Case No. 2020-00104, *Electronic Application of Clark Energy Cooperative, Inc. For A General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407* (Ky. PSC Jan. 25, 2022), Order.

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 Fleming-Mason Energy to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
DEC 22 2023  
KENTUCKY PUBLIC SERVICE COMMISSION  
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ATTEST:

  
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