

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JACKSON)	
PURCHASE ENERGY CORPORATION FOR A)	CASE NO.
GENERAL ADJUSTMENT OF RATES AND)	2024-00085
OTHER GENERAL RELIEF)	

ORDER

On June 12, 2024, Jackson Purchase Energy Corporation, (Jackson Purchase Energy) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for the entirety of its response to the Attorney General’s First Request for Information (Attorney General’s First Request), Item 26(d) and Item 28(e) for ten years pursuant to KRS 61.878(1)(c)(1).

In support of its motion, Jackson Purchase Energy argued the Attorney General’s First Request, Item 26(d), contains multiple bids for a third-party right-of-way (ROW) management contract. Jackson Purchase Energy argued it operates in a competitive environment, especially with regards to obtaining contractors to perform ROW management,¹ and the information contained in the response to Attorney General’s First Request, Item 26(d), is commercially valuable and proprietary information that is retained by Jackson Purchase Energy on a need-to-know basis, and is generally recognized as confidential and proprietary in the utility industry.²

¹ Motion (filed June 12, 2024) at 2, paragraph 5.

² Motion at 3, paragraph 7.

Having considered the motion and the material at issue, the Commission finds that Jackson Purchase Energy's response to the Attorney General's First Request, Item 26(d) does not meet the criteria for confidential treatment and should not be exempted from public disclosure. The Commission generally treats itemized bids as confidential for a limited time to prevent future bidders from using the information, with the exception of the winning bid. The winning bid amount is included in revenue requirement calculations and shall be subject to public disclosure.³ Therefore, the Commission finds that the request for confidential treatment should be denied for Jackson Purchase Energy's response to the Attorney General's First Request, Item 26(d), pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1)(c)(1). However, the Commission is granting Jackson Purchase Energy leave to amend the motion to identify the winning bidder and final bid amount.

In addition, Jackson Purchase Energy argued its response to the Attorney General's First Request Item, 28(e) contains the Key Ratio Trend Analysis (KRTA) compiled by Cooperative Financial Corporation (CFC). Jackson Purchase Energy argued release of the KRTA would permit Jackson Purchase Energy's competitors an unfair commercial advantage.⁴ According to Jackson Purchase Energy's motion, the KRTA also contains information subject to copyright laws, and CFC has the right to rely on its copyright to protect against the public disclosure of the information.⁵ Release of the KRTA could put Jackson Purchase Energy in the position to be accused of violating CFC's

³ See, Case No. 2022-00402, *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-Fired Generating Unit Retirements* (Ky. PSC Nov. 20, 2023), Order at 3.

⁴ Motion at 2, paragraph 3.

⁵ Motion at 2, paragraph 3.

copyright.⁶ Jackson Purchase Energy argued that disclosure of the information could also hinder Jackson Purchase Energy in being granted access to similar information.⁷

Having considered the motion and the material at issue, the Commission finds that Jackson Purchase Energy's response to the Attorney General's First Request, Item 28(e) is recognized as confidential or proprietary, that if disclosed would permit an unfair commercial advantage to competitors of the disclosing party; 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 is not bound by non-disclosure agreements; however, the Commission recognizes that disclosure of the information may result in a competitive disadvantage to Jackson Purchase Energy. This finding is also consistent with Commission precedent.⁸

IT IS THEREFORE ORDERED that:

1. Jackson Purchase Energy's June 12, 2024 motion for confidential treatment for the response to the Attorney General's First Request for Information, Item 26(d) is denied.

2. Jackson Purchase Energy is granted leave to amend the motion to identify the winning bidder and final bid amount in the response to the Attorney General's First Request for Information, Item 26(d).

⁶ Motion at 2, paragraph 6.

⁷ Motion at 2, paragraph 6.

⁸ See, Case No. 2021-00358, *Electronic Application of Jackson Purchase Corporation for a General Adjustment of Rates and Other General Relief* (Ky. PSC Dec. 9, 2021), Order at 2, granting confidential treatment to a KRTA.

3. Jackson Purchase Energy's June 12, 2024 motion for confidential treatment for the response to the Attorney General's First Request for Information, Item 28(e) is granted.

4. 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.

5. 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).

6. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Jackson Purchase Energy shall inform the Commission and file with the Commission an unredacted copy of the designated material.

7. 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, Jackson Purchase 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 Jackson Purchase Energy is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

8. The Commission shall not make the requested material for which confidential treatment was granted 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 Jackson Purchase Energy to seek a remedy afforded by law.

9. The designated material denied confidential treatment by this Order is not exempt from public disclosure and shall be placed in the public record and made available for public inspection.

10. If Jackson Purchase Energy objects to the Commission's determination that the requested material not be granted confidential treatment, it must seek either rehearing pursuant to KRS 278.400 or judicial review of this Order pursuant to KRS 278.410. Failure to exercise either of these statutory rights will be deemed as agreement with the Commission's determination of which materials shall be granted confidential treatment.

11. Within 30 days of the date of service of this Order, Jackson Purchase Energy shall file a revised version of the designated material for which confidential treatment was denied, reflecting as unredacted the information that has been denied confidential treatment.

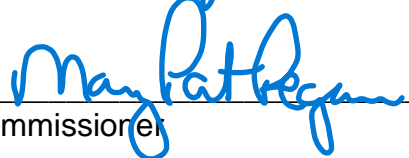
12. The designated material for which Jackson Purchase Energy's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of service of this Order to allow Jackson Purchase Energy to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION

Chairman



Vice Chairman

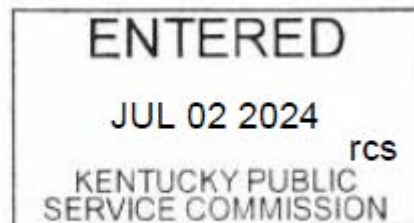


Commissioner

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