

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LICKING)	
VALLEY RURAL ELECTRIC COOPERATIVE)	CASE NO.
CORPORATION FOR A GENERAL ADJUSTMENT)	2024-00211
OF RATES AND OTHER GENERAL RELIEF)	

ORDER

On October 16, 2024,¹ Licking Valley Rural Electric Cooperative Corporation (Licking Valley RECC) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for indefinite period for information contained within its responses to the Commission Staff’s Third Request for Information (Staff’s Third Request), Item 11.²

LEGAL STANDARD

The Public Service Commission is a public agency subject to Kentucky Open Records Act, which requires that all public records “be open for inspection by any person, except as otherwise provided by KRS 61.870³ to KRS 61.884.⁴ The exceptions to the free and open examination of public records should be strictly construed. The party requesting that the materials be granted confidential protection has the burden of

¹ Licking Valley RECC’s Motion for Confidential Treatment (Motion) (filed Oct. 16, 2024).

² Licking Valley RECC’s Response to Staff’s Third Request (filed Oct. 16, 2024).

³ KRS 61.870.

⁴ KRS 61.884.

establishing that one of the exemptions is applicable. KRS 61.878(1)(c)(1)⁵ exempts from public disclosure “[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

DISCUSSION AND FINDINGS

Licking Valley RECC sought confidential treatment for certain information, specifically related to a purchase power agreement between Licking Valley RECC and Starshine Energy.⁶ In support of its motion, Licking Valley RECC argued that public disclosure would harm its competitive position by undermining future negotiations for renewable energy, which would ultimately disadvantage the cooperative and its members.⁷ Licking Valley RECC emphasized that the agreement includes material contract terms and is treated as confidential within the utility industry, shared internally only on a "need-to-know" basis.⁸

Licking Valley RECC cited to the Kentucky Open Records Act (KRS 61.878(1)(c)(1)) as well as *Zink v. Department of Workers Claims, Labor Cabinet*,⁹ and *Hoy v. Kentucky Industrial Revitalization Authority*,¹⁰ to argue that disclosure would harm its competitive position.

⁵ KRS 61.878(1)(c)(1).

⁶ Licking Valley RECC's Motion, paragraph 2.

⁷ Licking Valley RECC's Motion, paragraph 3.

⁸ Licking Valley RECC's Motion, paragraph 4.

⁹ *Zink v. Department of Workers Claims, Labor Cabinet*, 902 S.W.2d 825 (Ky. App. 1994).

¹⁰ *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995).

Having considered the motion and the material at issue, the Commission finds that only material and specific redactions, such as price and length of term, in the materials requested to be confidential from Licking Valley RECC's response to Staff's Third Request, Item 11. Specifically, the material terms of the purchase power agreement between Licking Valley RECC and Starshine Energy is generally recognized as confidential or proprietary which if openly disclosed would permit an unfair commercial advantage to Licking Valley RECC's competitors; 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 remainder of the document that does not contain material and specific terms will remain part of the public record.

IT IS THEREFORE ORDERED that:

1. Licking Valley RECC's October 16, 2024 motion for confidential treatment is granted, in part, for material and specific terms, such as price and term, of the purchase power agreement between Licking Valley RECC and Starshine Energy.
2. The designated material granted confidential treatment by this Order shall be redacted and 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. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Licking Valley RECC shall inform the Commission and file with the Commission an unredacted copy of the designated material.

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, Licking Valley 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 Licking Valley 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 Licking Valley RECC to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION

Chairman



Commissioner

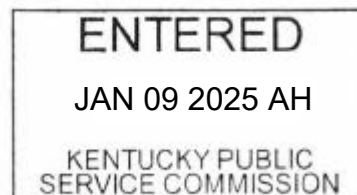
Commissioner



Commissioner John Will Stacy did not participate in the deliberations or decision concerning this case.

ATTEST:

 
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