

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CUMBERLAND FALLS)	
HIGHWAY WATER DISTRICT FOR APPROVAL)	
OF FINANCING AND ISSUANCE OF A)	CASE NO.
CERTIFICATE OF CONVENIENCE AND)	2017-00268
NECESSITY)	

ORDER

On July 5, 2017, Cumberland Falls Highway Water District (“Cumberland Falls”) filed a petition, pursuant to KRS 61.878(1)(m) and 807 KAR 5:001, Section 13, requesting that the Commission grant confidential treatment to information provided by Cumberland Falls as part of its Application in this proceeding. The designated material is more specifically described as confidential information provided by Cumberland Falls in Exhibit A of the Application consisting of engineering plans, diagrams, and drawings.

As a basis for its request, Cumberland Falls states that disclosure of these plans, diagrams, and maps of the Cumberland Falls water distribution system could be a threat to public safety by exposing the vulnerabilities of the system in regards to a terrorist act.

Having considered the petition and the material at issue, the Commission finds that the designated material contained in Cumberland Falls's Application is generally recognized as confidential or proprietary, and therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to KRS 61.878(1)(m) and 807 KAR 5:001, Section 13.

More precisely, the Commission finds that under the Kentucky Open Records Act, it is entitled to withhold from public disclosure information disclosed to it to the extent that open disclosure would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act” This right to protect from public disclosure includes:

(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 . . . water . . . and;

(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.¹

IT IS THEREFORE ORDERED that:

1. Cumberland Fall’s petition for confidential protection for all paper and electronic diagrams and maps of the Cumberland Fall’s water distribution system submitted with its application is granted.
2. The designated material shall not be placed in the public record or made available for public inspection until further Orders of this Commission.
3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
4. Cumberland Falls shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.

¹ KRS 61.878(1)(m).

5. If a non-party to this proceeding requests to inspect the material granted confidential treatment by this Order, Cumberland Falls shall have 20 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 Cumberland Falls is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

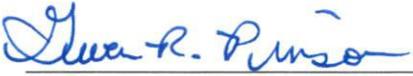
6. The Commission shall not make the requested material available for inspection for 20 days following an Order finding that the material no longer qualifies for confidential treatment in order to allow Cumberland Falls to seek a remedy afforded by law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission



ATTEST:


Executive Director

*Cumberland Falls Highway Water District
6926 Cumberland Falls Highway
Corbin, KY 40701-8637

*Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KENTUCKY 40601