

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF THE WHOLESALE)
WATER SERVICE RATES OF THE CITY OF) CASE NO. 2015-00039
AUGUSTA)

ORDER REGARDING REQUEST FOR CONFIDENTIAL TREATMENT

On August 27, 2015, the Commission received a petition filed by the city of Augusta (“Augusta”) pursuant to 807 KAR 5:001, Section 13, that seeks confidential treatment of the “Wage & Salary Survey of Kentucky Cities” (“Survey”) supplied in support of its pre-filed direct testimony. Bracken County Water District (“Bracken District”) did not file a response to Augusta’s petition.

DISCUSSION

The Commission is a public agency subject to Kentucky’s Open Records Act, and all public records of the Commission “shall be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884.”¹ Therefore, “all material on file with the commission shall be available for examination by the public unless the material is confidential.”²

In support of its petition, Augusta stated that the Survey is available only to members of the Kentucky League of Cities and argued that KRS 61.878(c) protects information that is confidential or proprietary, and that paragraphs (k) and (l) of the same statute protect information the disclosure of which is protected by federal or state

¹ KRS 61.872(1).

² 807 KAR 5:001, Section 13(1).

laws. Augusta stated that the Survey may be protected by certain copyright laws. The petition seeks confidential treatment for a permanent period of time.

The Commission has held that copyrighted documents which are not available for reproduction to the general public and which have been obtained through paid company subscriptions qualify for confidential protection.³ The Commission has granted confidential protection to benefit and compensation studies which are the product of the investment of extensive time and money.⁴ Having reviewed the Survey filed by Augusta, the Commission finds that Augusta has met its burden to demonstrate that the information is generally recognized as confidential or proprietary. The material should remain confidential for an indefinite period.

Having carefully considered the petition and the materials at use, the Commission finds that:

1. The materials for which Augusta seeks confidential treatment meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1), and 807 KAR 5:001, Section 13.

2. The materials for which Augusta seeks confidential treatment should not be placed in the public record or made available for public inspection for an indefinite period of time due to the proprietary nature of the information.

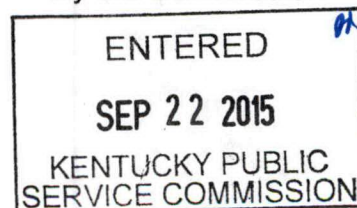
³ Case No. 2012-00180, *Application of Duke Energy Kentucky, Inc. to Implement a Hedging Program to Mitigate Price Volatility in the Procurement of Natural Gas*, (Ky. PSC July 16, 2014).

⁴ See Case No. 2014-00159, *Application of Cumberland Valley Electric, Inc. for an Adjustment of Rates*, (Ky. PSC May 7, 2015) and Case No. 2013-00067, *Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates for Gas Service*, (Ky. PSC Oct. 29, 2013).

IT IS THEREFORE ORDERED that:

1. Augusta's petition for confidential protection is hereby granted.
2. The materials for which Augusta seeks confidential treatment shall not be placed in the public record or made available for public inspection for an indefinite period of time.
3. Augusta shall inform the Commission if the materials in question become publicly available or no longer qualify for confidential treatment.
4. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order, the Commission shall notify Augusta in writing and direct Augusta to demonstrate within 20 days of its receipt of the notice that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Augusta is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.
5. The Commission shall not make the requested materials available for inspection for 20 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Augusta to seek a remedy afforded by law.

By the Commission



ATTEST:


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