

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PROPOSED ADJUSTMENT OF	)	CASE NO.
THE WHOLESAL WATER SERVICE RATES OF	)	2019-00260
CENTRAL CITY MUNICIPAL WATER & SEWER	)	

ORDER

On August 28, 2019, Central City Municipal Water & Sewer (Central City) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for an indefinite period for redactions from a document produced in response to Commission Staff's First Request for Information, Item 7.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."<sup>1</sup> In support of its petition, Central City argued for the application of KRS 61.878(1)(a), which exempts from disclosure "[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly

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<sup>1</sup> KRS 61.872(1).

construed.<sup>2</sup> The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.<sup>3</sup>

The redacted document was a spreadsheet containing unredacted names of employees and information regarding employees' compensation. This included redacted figures that would allow employee salaries to be determined, such as social security and Medicare deductions. It also included pension costs, amounts paid towards medical and dental insurance, and whether family members were insured. The list of employees included the water commissioners and their social security and Medicare deductions, but no other information regarding the commissioners.

Having considered the petition and the material at issue, the Commission finds that Central City's petition is granted in part and denied in part. The Commission finds that all the redacted information is granted confidential treatment with the exception of the water commissioner line items. All other employees' compensation and family insurance status information is private information protected by KRS 61.878(1)(a).<sup>4</sup> All redacted information pertaining to employees other than the water commissioners meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(a) and 807 KAR 5:001, Section 13.

The Commission further finds that the request for confidential treatment is denied for redacted compensation information for the water commissioners. The aggregate

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<sup>2</sup> See KRS 61.871.

<sup>3</sup> 807 KAR 5:001, Section 13(2)(c).

<sup>4</sup> Case No. 2018-00291, *Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revisions* (Ky. PSC Mar. 13, 2019), Order at 2, granting the motion for confidential treatment of non-executive public employees.

salaries of the water commissioners were publicly disclosed in an audit report.<sup>5</sup> Dividing this number by the number of water commissioners reveals their individual salaries. Since this information has already been made public, it does not meet the criteria for confidential treatment and is not exempted from public disclosure pursuant to KRS 61.878(1)(a) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. Central City's petition for confidential treatment for its response to Staff's First Request, Item 7 is granted in part and denied in part.

2. Central City's petition for confidential treatment for non-commissioner compensation and insurance information is granted.

3. Central City's petition for confidential treatment for commissioner compensation information is denied.

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 an indefinite period 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. Central City shall inform the Commission if the designated material granted confidential treatment becomes publicly available or no longer qualifies for confidential treatment.

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

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<sup>5</sup> <http://kydlgweb.ky.gov/Documents/SPGE/2019-Audit-7694.pdf>, Last accessed Oct. 11, 2022.

granted confidential treatment has not expired, Central City 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 Central City 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 Central City 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 Central City 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, Central City 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 Central City'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 Central City to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION

  
Chairman

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Vice Chairman

  
Commissioner



ATTEST:

  
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