

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF: )  
 )  
THE APPLICATION OF KENTUCKY-AMERICAN ) CASE NO. 2012-00520  
WATER COMPANY FOR AN ADJUSTMENT OF )  
RATES ON AND AFTER JANUARY 27, 2013 )

**PETITION FOR CONFIDENTIAL PROTECTION OF THE RESPONSE TO THE  
COMMISSION STAFF’S THIRD REQUEST FOR INFORMATION AND THE  
ATTORNEY GENERAL’S SECOND REQUEST FOR INFORMATION**

Kentucky-American Water Company (“KAWC”) moves the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 7, and KRS 61.878(1)(c) to grant confidential treatment to certain information KAWC is providing in response to data requests. In support of this Petition, KAWC states as follows:

1. On March 6, 2013, the Commission Staff issued its Third Request for Information to KAWC. Item No. 24(e) requests copies of the minutes of each Business Transformation Steering Committee (“Steering Committee”) meeting. Item No. 29 requests copies of Steering Committee documents discussing the decision to terminate billing services to non-American Water affiliates.

2. On March 6, 2013, the Attorney General issued its Second Request for Information to KAWC. Item No. 15 requests copies of certain KAWC internal audits and supporting documentation.

3. The Kentucky Open Records Act exempts from disclosure certain confidential or proprietary information. KRS 61.878(1)(c). To qualify for this exemption, and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the

information would permit an unfair commercial advantage to competitors of the party seeking confidentiality.

4. In response to Commission Staff Item No. 24(e), KAWC is providing copies of the minutes from each Steering Committee meeting. The minutes contain confidential information regarding the selection of vendors for the Business Transformation project; contract negotiation strategies; detailed analysis of the bids; and scoring of the bids. As explained in the Petition for Confidential Treatment KAWC filed on February 20, 2013 in this proceeding, disclosure of the terms of the bids, as well as the review and selection process, would damage American Water's competitive position and business interests. This information reveals the business model American Water uses – the procedure it follows and the factors and inputs it considers – in evaluating bids. Moreover, if the Commission were to grant public access to the information, potential bidders could review the information and prospectively manipulate the bid solicitation process to the detriment of American Water, KAWC and its customers by tailoring bids to correspond to and comport with American Water's bidding criteria and evaluation process.

5. In response to Commission Staff Item No. 29, KAWC is providing copies of minutes from Steering Committee meetings. KAWC seeks confidential treatment of the minutes for the reasons set forth in paragraph 4.

6. In response to Attorney General Item No. 15, KAWC is producing internal audits that not only contain sensitive commercial information, but as a whole, reflects American Water's internal operating practices, thereby explicitly revealing how American Water conducts its business. The internal practices referenced and examined in the audits are the result of years of extensive effort, expense, and research by American Water. Revealing the contents of the

audits publically would contravene the Kentucky Open Records Act for two reasons. First, public disclosure of the information would unfairly allow competitors to obtain, at no cost, the benefit of American Water's efforts in implementing and refining its business practices. Second, the audits contain information regarding how American Water negotiates and purchases chemicals, as well as how costs are allocated. If publically accessible, vendors would gain insight into how American Water evaluates its purchasing practices, which could inure a benefit to vendors to the financial detriment of KAWC and its customers. The information for which confidential treatment is sought is similar to the information the Commission has found merits protection in prior KAWC rate cases. See June 16, 2010 Letter from Jeff Derouen to Lindsey W. Ingram, III in Case No. 2010-00036.

7. KAWC requests that the information be held confidentially in perpetuity. KAWC cannot envision a period of time in which it would be appropriate for KAWC's proprietary commercial information to be disclosed in the public realm.

8. The description of the responsive documents above demonstrates that they merit confidential treatment. If the Commission disagrees, however, it must hold an evidentiary hearing to protect the due process rights of KAWC and so that the Commission will have a complete record to enable it to reach a decision with regard to this matter. Utility Regulatory Commission v. Kentucky Water Service Company, Inc., Ky. App., 642 S.W.2d 591, 592-94 (1982).

9. KAWC does not object to the disclosure of the information at issue to the parties to this proceeding upon the execution of a confidentiality agreement. In accordance with the Commission's December 17, 2012 Order KAWC is filing (1) a copy of the material with those portions for which confidentiality is sought redacted on the Commission's web portal (in

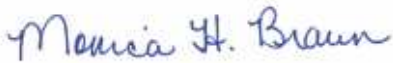
addition to the original and paper copy provided of the responses); (2) a paper copy of the materials with the confidential information clearly designated in yellow or by other reasonable means; and a (3) CD-ROM containing an electronic version of such material with highlighting or other reasonable designation.

**WHEREFORE**, KAWC respectfully requests that the Commission grant confidential treatment for the information at issue, or in the alternative, schedule an evidentiary hearing on all factual issues while maintaining the confidentiality of the information pending the outcome of the hearing.

Dated: March 20, 2013

Respectfully submitted,

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BY:  \_\_\_\_\_

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**CERTIFICATE**

In accordance with Ordering Paragraph No. 10 of the Commission's December 17, 2012 Order, this is to certify that Kentucky-American Water Company's March 20, 2013 electronic filing is a true and accurate copy of the documents to be filed in paper medium; that the electronic filing has been transmitted to the Commission on March 20, 2013; that an original and one copy of the filing will be delivered to the Commission on March 20, 2013; and that no party has been excused from participation by electronic means.

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By           *Marcia H. Braun*          

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