

RECAP

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

FEB 08 2011  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

ALTERNATIVE RATE FILING APPLICATION OF )  
HILLRIDGE FACILITIES, INC. ) Case No. 2010-00426

ATTORNEY GENERAL'S RESPONSE TO AND REQUEST FOR DENIAL OF  
APPLICANT'S PETITION FOR CONFIDENTIAL TREATMENT

The Attorney General, by and through his Office of Rate Intervention, in response to Hillridge Facilities, Inc.'s Petition for Confidential Treatment of List of Invoices and Invoices Attached to Its Answers to Commission Staff's First Information Request, submits his position and requests the Commission deny confidential treatment. In support of his position, the Attorney General submits the following.

The Applicant, Hillridge Facilities, Inc., has made a blanket request for confidential treatment of its "List of Invoices and Invoices Attached to its Answers to Commission Staff's First Information Requests."<sup>1</sup> If the Commission were to grant this request, it would essentially provide a foundation for confidential treatment for nearly any item of a utility utilized in support of a rate application.

A demonstration of the necessity for confidential treatment requires showing that the information is generally recognized as confidential or proprietary, which if

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<sup>1</sup> Applicant Response to PSC Staff, Questions 3, 4, 5, 6, and 7.

openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records. See KRS 61.878(1)(c); see also 2 February 2011 letter from Jeff Derouen, Executive Director, to John N. Hughes (Counsel for Water Service Corporation of Kentucky), Ky PSC Case No. 2010-00476 (denying confidential treatment for utility's independent auditor's report). The information that Hillridge seeks to protect is information that is not recognized as confidential or proprietary.

Hillridge asserts that the material contains specific dollar figures relating to the utility's costs and operations. The same is true of all financial information submitted in a rate application such as the amounts contained in Hillridge's Application and also the invoices submitted in the current case in support of Hillridge's depreciation expense. The Applicant does not reference any Commission precedent through which the information -- information that is of the exact same nature disclosed previously in this proceeding -- warrants confidential protection.

Hillridge maintains that the information would pose substantial competitive harm to Hillridge. In reality, MSD is not actually a competitor; rather, MSD looms as a potential initiator of an eminent domain proceeding. The Commission has the ability to, upon proper request, prevent MSD from utilizing this proceeding as a means toward an end other than determining whether Hillridge has met its burden to justify an increase in rates. Blanket confidential treatment of otherwise routinely disclosed information is not necessary (and is the wrong remedy for such a problem).

Finally, any argument that the information is not generally disclosed to non-management employees of Hillridge is neither compelling nor does it meet the standard of review. It is information that is consistently disclosed in the rate-making process, including previously disclosed in this case.

WHEREFORE, the Attorney General, , by and through his Office of Rate Intervention, files this response and requests the Commission deny the Applicant's petition for confidential treatment of List of Invoices and Invoices Attached to Its Answers to Commission Staff's First Information Request. .

Respectfully submitted,

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*Notice Regarding Filing and Certificate of Service*

Counsel certifies that an original and ten copies of this Response and Motion to Deny Applicant's Petition for Confidential Treatment were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601. A copy was served on the Applicant by United States Mail, first-class, postage-prepaid, to Sonja Ridge, Hillridge Facilities, Inc., 17825 Bradbe Road, Fisherville, Kentucky 40023; and by hand-delivery to Robert C. Moore, Hazelrigg & Cox, LLP (at the Informal Conference); by hand-delivery to Laurence J. Zielke, Janice M. Theriot (at the Informal Conference or, alternatively, to) Zielke Law Firm PLLC, 1250 Meidinger Tower, Louisville, Kentucky 40202. The filing and service took place on 8February 2011.

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Assistant Attorney General