

RECEIVED

SEP 20 2019

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

THE APPLICATION OF KNOTT COUNTY)	
WATER AND SEWER DISTRICT FOR AN)	CASE NO. 2019-00268
ALTERNATIVE RATE ADJUSTMENT)	

KNOTT COUNTY WATER AND SEWER DISTRICT'S
MOTION FOR CONFIDENTIAL TREATMENT

Comes now Knott County Water and Sewer District ("KCWSD"), by counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13, and other applicable law, and respectfully requests the Commission to classify and protect certain information provided by the Company in its Application for an adjustment of its electric rates as Confidential Information, respectfully stating as follows:

1. Contemporaneous with this filing, KCWSD is tendering responses to data requests previously propounded jointly by the Letcher County Water and Sewer District ("LCWSD") and the City of Hindman Kentucky ("Hindman") and other data requests propounded by the Attorney General. Certain of the information being produced in responses to these requests is confidential in nature and, if publicly disclosed, could cause injury to KCWSD.

2. For instance, Request No. 6 asks KCWSD to provide a "system map showing all [KCWSD's] facilities...." In response to this request, KCWSD is providing a map that shows the location of its facilities. The map provides significant information concerning critical energy infrastructure and therefore should be afforded confidential treatment in its entirety. Such information would be valuable to any terrorist or miscreant intent on damaging or sabotaging the KCWSD system and endangering customers' access to potable water.

3. Request Nos. 12, No. 14, 18 and 27 from LCWSD and Hindman request information pertaining to KCWSD's compensation, benefits, pension expense and payroll taxes. In response to these requests, KCWSD is providing detailed information regarding compensation and benefits, pension expense and payroll taxes. It is impossible to be responsive to the request without providing information that is specific to each of KCWSD's employees, who have a reasonable expectation of privacy with regard to their total compensation, benefits, pension and payroll taxes. KCWSD therefore respectfully requests that the employee's names and titles be afforded confidential treatment. This will further mitigate the risk that other entities may use the information being tendered by KCWSD as a means to poach what is a skilled and talented workforce.

4. LCWSD and Hindman (Request No. 16) and the Attorney General (Request No. 10) both asked for the current salary of each KCWSD Commissioner. In response to these requests, KCWSD is providing the name and monthly salary of each of its Commissioners. KCWSD asks that the names of its Commissioners which correspond to the indicated salaries be redacted. While neither the names nor the salaries of the Commissioners are confidential in their own right, the fact that there is one Commissioner who receives lower compensation is not publicly available and it is appropriate to redact the names of all the Commissioners so as to not single out one Commissioner.

5. All of the information described above is hereby designated as the "Confidential Information." The Kentucky Open Records Act exempts from disclosure information that, due to its confidential and proprietary nature, would permit "an unfair commercial advantage to competitors of the entity that disclosed the records," or that would be of use to anyone threatening or targeting public utility infrastructure, if openly disclosed. *See* KRS 61.878(1)(c)1. The

Confidential Information was, and remains, integral to KCWSD's effective execution of business decisions. Indeed, as the Kentucky Supreme Court has found, "information concerning the inner workings of a corporation is 'generally accepted as confidential or proprietary.'" *Hoy v. Kentucky Industrial Revitalization Authority*, 904 S.W.2d 766, 768 (Ky. 1995). The information for which confidential treatment is sought satisfies both common law and statutory requirements for confidential protection.

6. The information for which KCWSD is seeking confidential treatment developed internally and is not on file publicly with any public agency and is not publicly available from any commercial or other source. The aforementioned information is distributed within KCWSD only to those employees who must have access for business reasons and is generally recognized as confidential and proprietary in the utility industry.

7. KCWSD does not object to limited disclosure of the Confidential Information described herein, pursuant to an acceptable protective agreement entered into with any intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

8. In accordance with the provisions of 807 KAR 5:001, Section 13(2)(e), KCWSD is filing one copy of the Confidential Information separately under seal, and one copy with the Confidential Information redacted.

9. KCWSD respectfully requests that the Confidential Information, except as noted below, be withheld from public disclosure for a period of ten years. This will assure that the Confidential Information – if disclosed after that time – will no longer be commercially sensitive so as to likely impair the interests of KCWSD or its employees if publicly disclosed. KCWSD respectfully requests that the system facilities map be granted confidential status in perpetuity.


10. To the extent the Confidential Information becomes generally available to the

public, whether through filings required by other agencies or otherwise, KCWSD will notify the Commission and have its confidential status removed, pursuant to 807 KAR 5:001 Section 13(10)(a).

WHEREFORE, KCWSD respectfully requests that the Commission classify and protect as confidential the specific information described herein.

Done this 20th day of September 2019.

Respectfully submitted,



Mark David Goss
L. Allyson Honaker
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B-325
Lexington, KY 40504
(859) 368-7740
mdgoss@gosssamfordlaw.com
allyson@gosssamfordlaw.com

*Counsel for Knott County Water and
Sewer District*

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was sent via U.S. Mail, postage pre-paid, to the following individuals on this 20th day of September 20, 2019:

Hon. Rebecca Goodman
Hon. Kent Chandler
Hon. Justin McNeil
Office of the Attorney General
700 Capital Ave., Suite 20
Frankfort, KY 40601-8204

Gerald Wuetcher
Stoll Keenon Ogden, PLLC
300 West Vine Street, Suite 2100
Lexington, KY 40507-1801

Jeremy Morgan
City Attorney
P. O. Box 496
Hindman, KY 41822

A handwritten signature in blue ink, appearing to read "L. Alyson Starnes", is written over a horizontal line.

*Counsel for Knott County Water and
Sewer District*