

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF WATER)	
SERVICE CORPORATION OF KENTUCKY FOR)	
A GENERAL ADJUSTMENT IN EXISTING RATES)	CASE NO.
AND A CERTIFICATE OF PUBLIC)	2022-00147
CONVENIENCE AND NECESSITY TO DEPLOY)	
ADVANCED METERING INFRASTRUCTURE)	

ORDER

Water Service Corporation of Kentucky (Water Service Kentucky) filed petitions, on May 31, 2022, June 28, 2022, July 28, 2022, August 16, 2022, and September 1, 2022, pursuant to 807 KAR 5:001E, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for an indefinite period for certain materials filed in its application and in response to requests for information from Commission Staff and the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General).

May 31, 2022 Petition:

Water Service Kentucky requested confidential protection for the “Wage and Benefit Study, Water Service Corporation of Kentucky, May 2022” (Wage and Benefit Study) provided with its application. Water Service Kentucky argued that this information is protected pursuant to KRS 61.878(1)(a), which exempts public disclosure of records that, if publicly disclosed, would constitute an unwarranted invasion of privacy, because the position-specific information enables individual non-executive employee compensation to be readily determined. Water Service Kentucky also asserted that the

designated materials are exempt from public disclosure under KRS 61.878(1)(c)(1) because the Wage and Benefit Study was obtained from a third party and contains confidential and proprietary information that would give competitors an unfair commercial advantage in hiring away current and future Water Service Kentucky employees if access to this information is allowed.

Having considered the petition and the material at issue, the Commission finds that Water Service Kentucky's Wage and Benefit Study provided with its application contains information that is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001E, Section 13, and KRS 61.878(1)(a) and (1)(c)(1).

June 28, 2022 Petition:

Water Service Kentucky requested confidential protection for information provided in response to Items 16, 36, 47, and 49 of the Commission Staff's First Request for Information (Staff's First Request). Water Service Kentucky argued the information in response to Items 36, 47, and 49, including employee salary and wage increase information, and a copy of Water Service Kentucky's wage study and corresponding workpapers, contains salary and personal identifying information about Water Service Kentucky employees, and disclosure thereof would constitute an invasion of privacy under KRS 61.878(1)(c)(1). Water Service Kentucky also argued the federal and state income tax returns and its Cost Allocation Manual (CAM) and supporting files provided in response to Item 49, are also records exempt pursuant to KRS 61.878(1)(c)(1), because they contain highly sensitive allocation forecasts and information related to Water Service Kentucky's affiliates, which could competitively disadvantage the company if disclosed.

It further argued the information provided in response to Staff's First Request, Item 16 derive from the company's federal tax returns, and therefore merits confidential protection pursuant to KRS 61.878(1)(k), which prohibits disclosure of federal income tax returns.

Having considered this petition and the material at issue, the Commission finds that the information provided in response to Items 16, 36, 47, and 49 of Staff's First Request, is generally recognized as confidential or proprietary; and disclosure of this information may result in an invasion of privacy, or a distinct competitive advantage, and the information is generally recognized as confidential or proprietary. Therefore, this information meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001E, Section 13, KRS 61.878(1)(a) and (1)(c)(1), and KRS 61.878(1)(k).

July 28, 2022 Petition:

Water Service Kentucky requested confidential protection for information provided in response to Items 9 and 19 of the Commission Staff's Second Request for Information (Staff's Second Request) and Items 1, 3, 52, 65, and 83 of the Attorney General's First Request for Information (Attorney General's First Request).

Water Service Kentucky requested protection for the organizational chart provided in response to the Attorney General's First Request Item 1, including Corix Infrastructure Inc.'s (Corix) organizational structure in relation to unregulated operations (as shown on page 1 of the attachment), but not the portion of the organization chart that shows the corporate parentage of Water Service Kentucky to Corix (as shown on page 2 of the attachment). Water Service Kentucky argued this portion of the chart is exempt under KRS 61.878(1)(c)(1), because it contains information regarding an unregulated entity with

unregulated affiliates, and public disclosure of Corix's corporate organization chart would release sensitive, proprietary information into the competitive sphere that would work a commercial disadvantage against the company.

In response to Staff's Second Request Item 9, Water Service Kentucky provided annual salary comparisons with specific names and titles of employees, and their salaries. In response to the Attorney General's First Request, Item 3, Water Service Kentucky provided vehicle allowances given to the salaried employees, which it argued is a form of compensation, similar to salaries and, thus, deserves similar treatment. Water Service also provided copies of incentive compensation plans in response to Staff's Second Request Item 9 and Attorney General's First Request Item 65, which reflect Corix's human capital management. It argued the above information is exempt pursuant to both KRS 61.878(1)(a) and (c), as disclosure of the information would result in an invasion of privacy, and if competitors were able to access this information, competitors would have an unfair commercial advantage in hiring away current and future Water Service Kentucky employees.

In response to Staff's Second Request, Item 19, Water Service Kentucky provided three proposals that it received in response to a solicitation related to AMI meters. It also provided information regarding its due diligence conducted related to the proposed AMI metering system in response to the Attorney General's First Request, Item 52. Water Service Kentucky argued these proposals and due diligence information should be granted confidential protection because they contain commercially sensitive information that, if publicly disclosed, would provide competitive advantages to the vendor's interests and is exempt pursuant to KRS 61.878(1)(c). Water Service Kentucky further argued the

propagation study prepared by third-party vendor, Neptune, which determined the best application for Water Service Kentucky's service areas, reveals the location of utility-related infrastructure, which is exempt under KRS 61.878(1)(m)(1)(f).

Water Service Kentucky provided information regarding how Corix calculated percentage allocations to each affiliate in response to Attorney General's First Request, Item 83. Water Service Kentucky stated this underlying data is related to Corix's CAM, which has been publicly provided as an attachment to Shawn Elicegui's testimony, but asserted the underlying data provides substantially more details that contain highly sensitive information related to its affiliates, including detailed forecasts that, if publicly disclosed, would allow competitive advantage to others by revealing the inner workings of the corporation. Water Service Kentucky argued this information is exempt pursuant to KRS 61.878(1)(c)(1).

Having considered the material at issue, the Commission finds that the above-described information provided in response to Staff's Second Request, Items 9 and 19,¹ and the Attorney General's First Request, Items 1, 3, 52, 65, and 83, contain information, the disclosure of which may result in an invasion of privacy, or a distinct competitive advantage, and reveals the location of utility-related infrastructure. Therefore, this information meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001E, Section 13, KRS 61.878(1)(a) and (1)(c)(1), and KRS 61.878(1)(m)(1)(f).

¹ The Commission would note that the winning bid would normally be denied confidential protection, as that amount must be disclosed if it is to be recovered in rates. However, the Commission's Final Order denied Water Service Kentucky's AMI proposal, therefore, the entirety of the AMI proposals in response to solicitation for AMI meters, is granted confidential protection here.

August 16, 2022 Petition:

Water Service Kentucky requested confidential treatment for three documents provided as supplemental updates, including “Wage and Benefit Study, Water Service Corporation of Kentucky, Revised August 2022” (Revised Wage and Benefit Study); an update to two Excel files ((PSC DR 1-49 Exhibit 18-32-29 - Schedule B - S&W-PR Taxes-Benefits CONFIDENTIAL UPDATED 8.10.2022.xlsx; PSC DR 1-49 Exhibit 29 - Schedule C - 2023 CAM Forecast 2022-2025 - CONFIDENTIAL UPDATED 8.16.22.xlsx) submitted in response to Item 49 of Staff’s First Request. Water Service Kentucky incorporated its arguments for confidential protection of this information presented in its June 28, 2022 petition. The Commission finds that this supplemental information is likewise afforded confidential protection, for the same reasons above, pursuant to KRS 61.878(1)(c)(1).

September 1, 2022 Petition:

Water Service Kentucky requested confidential protection for Items 3 and 8 in response to Commission Staff’s Third Request for Information (Staff’s Third Request). Water Service Kentucky provided annual salary comparisons for specific employees, including names and titles of employees, as well as their salaries, in response to Staff’s Third Request, Item 3. Water Service Kentucky argued the disclosure of this information would constitute an invasion of privacy and could competitively disadvantage the company if disclosed, and therefore, is exempt pursuant to under KRS 61.878(1)(c)(1).

In response to Staff’s Third Request, Item 8, Water Service Kentucky provided information to supplement its response Staff’s Second Request, Item 19, with itemized schedules and evaluation of proposals submitted in response to a solicitation related to AMI meters. Water Service Kentucky previously requested confidential treatment for

Staff's Second Request, Item 19, as discussed above. Water Service Kentucky again argued these proposals contain commercially sensitive information that, if publicly disclosed, would certainly provide competitive advantages to the vendor's interests and is protected under KRS 61.878(1)(c).

The Commission finds that the information provided in response to Staff's Third Request, Item 3, is generally recognized as confidential or proprietary, and therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001E, Section 13, and KRS 61.878(1)(c)(1). The Commission further finds that the information provided in response to Staff's Third Request, Item 8, containing supplemental information to its response to Staff's Second Request, Item 19, is likewise afforded confidential protection, for the same reasons above, pursuant to KRS 61.878(1)(c).

IT IS THEREFORE ORDERED that:

1. Water Service Kentucky's May 31, 2022 petition for confidential treatment for the Wage and Benefit Study provided with its application, is granted.
2. Water Service Kentucky's June 28, 2022 petition for confidential treatment for information provided in response to Items 16, 36, 47, and 49 of the Commission Staff's First Request, is granted.
3. Water Service Kentucky's July 28, 2022 petition for confidential treatment for information provided in response to Items 9 and 19 of the Commission Staff's Second Request and Items 1, 3, 52, 65, and 83 of the Attorney General's First Request, is granted.
4. Water Service Kentucky's August 16, 2022 petition for confidential treatment for its Revised Wage and Benefit Study, and updates to two Excel files (PSC

DR 1-49 Exhibit 18-32-29 - Schedule B - S&W-PR Taxes-Benefits CONFIDENTIAL UPDATED 8.10.2022.xlsx; PSC DR 1-49 Exhibit 29 - Schedule C - 2023 CAM Forecast 2022-2025 - CONFIDENTIAL UPDATED 8.16.22.xlsx) submitted in response to Item 49 of the Staff's First Request, is granted.

5. Water Service Kentucky's September 1, 2022 petition for confidential treatment for information provided in response to Staff's Third Request, Items 3 and 8, is granted.

6. 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.

7. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001E, Section 13(9).

8. Water Service Kentucky shall inform the Commission if the designated material granted confidential treatment becomes publicly available or no longer qualifies for confidential treatment.

9. 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 granted confidential treatment has not expired, Water Service Kentucky 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 Water Service Kentucky is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

10. 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 Water Service Kentucky to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
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KENTUCKY PUBLIC
SERVICE COMMISSION

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