

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-)	
AMERICAN WATER COMPANY FOR AN)	
ADJUSTMENT OF RATES, A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY FOR)	CASE NO.
INSTALLATION OF ADVANCED METERING)	2023-00191
INFRASTRUCTURE, APPROVAL OF)	
REGULATORY AND ACCOUNTING)	
TREATMENTS, AND TARIFF REVISIONS)	

ORDER

On November 8, 2023, Kentucky-American Water Company (Kentucky-American) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for five years for Kentucky-American's response to the Attorney General's Second Request for Information (Attorney General's Second Request), Item 10.

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."¹ The exceptions to the free and open examination of public records should be strictly construed.² The party requesting that the materials be granted confidential protection has the burden of establishing that one of the

¹ KRS 61.872(1).

² KRS 61.878.

exemptions is applicable.³ KRS 61.878(1)(a) grants confidential protection of information that if disclosed would create an invasion of personal privacy.⁴

In support of its petition, Kentucky-American argued that the non-executive salary information provided in its response to Attorney General's Second Request, Item 10, should be afforded confidential treatment pursuant to 61.878(1)(a). Kentucky-American argued that disclosure of this information would violate the privacy rights of employees and provide insight into how Kentucky-American determines salary information for its employees. Kentucky-American further argued that the employees have a reasonable expectation of privacy and disclosure would be an unwarranted invasion of this privacy. Kentucky American noted that disclosure of compensation information would not further the Open Record's Act's purpose of making the government's actions open to public scrutiny and that the Commission has previously granted confidential treatment for similar information.⁵

Having considered the petition and the material at issue, the Commission finds that Kentucky-American's response to the Attorney General's Second Request, Item 10 is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(a). The Commission has previously found

³ 807 KAR 5:110, Section 5(2)(d).

⁴ KRS 61.878(1)(a).

⁵ , Case No. 89-374, *Application of Louisville Gas and Electric Company for an Order Approving an Agreement and Plan of Exchange and to Carry Out Certain Transactions in Connection Therewith* (Ky. PSC Apr. 30, 1997), Order.

that non-executive compensation information should be afforded confidential treatment and disclosure would be a violation of the expectation of privacy for employees.⁶

IT IS THEREFORE ORDERED that:

1. Kentucky-American's petition for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for five years or until further Order of this Commission.
3. 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).
4. Kentucky-American shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
5. 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, Kentucky-American 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 Kentucky-American is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.
6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no

⁶ See Case No. 2020-00104, *Electronic Application of Clark Energy Cooperative, Inc. for A General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407* (Ky. PSC Jan. 25, 2022), Order at 3.

longer qualifies for confidential treatment in order to allow Kentucky-American to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION



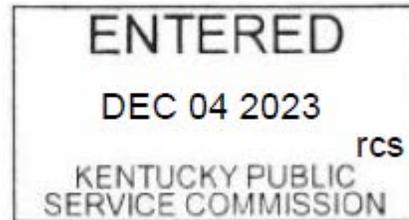
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