

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF:** )  
 )  
**THE APPLICATION OF KENTUCKY-AMERICAN ) CASE NO. 2010-00036**  
**WATER COMPANY FOR AN ADJUSTMENT OF )**  
**RATES ON AND AFTER MARCH 28, 2010 )**

**PETITION FOR CONFIDENTIAL TREATMENT**  
**OF RESPONSE TO ITEM 10 OF THE LEXINGTON-FAYETTE**  
**URBAN COUNTY GOVERNMENT’S**  
**SECOND SET OF INFORMATION REQUESTS**

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) to grant confidential treatment to information responsive to Item 10 of the Lexington-Fayette Urban County Government’s (“LFUCG”) Second Set of Information Requests. In support of this Petition, KAWC states as follows:

1. On May 14, 2010, the LFUCG served its Second Set of Information Requests on KAWC. Item 10 asks for documents related to “the process KAWC utilized to select the contractors for the construction of the new treatment plant and related pipeline.”

2. 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.

3. The response to Item 10 contains information concerning competitive bidding for the KRS II project and the process KAWC used to analyze the received bids. The public

disclosure of that information could permit an unfair advantage to KAWC and/or the bidders. Indeed, much of the information that is responsive to Item 10 was produced in Case No. 2007-00134. When it was produced, KAWC sought confidential protection of it<sup>1</sup> and the Commission granted such protection.<sup>2</sup>

4. 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).

5. 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. Two paper copies and a CD containing the documents in electronic medium will be filed with the Commission under seal for use in this proceeding on a confidential basis.

**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.

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<sup>1</sup> See KAWC's January 9, 2008 Petition for Confidential Treatment in Case No. 2007-00134.


<sup>2</sup> See the Commission's letter of January 17, 2008 in Case No. 2007-00134.

Respectfully submitted,

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**CERTIFICATE**

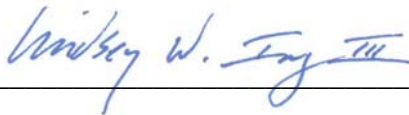
In accordance with Ordering Paragraph No. 6 of the Commission's February 16, 2010 Order, this is to certify that Kentucky-American Water Company's May 28, 2010 electronic filing is a true and accurate copy of the documents to be filed in paper medium (without confidential attachments); that the electronic filing has been transmitted to the Commission on May 24, 2010; that an original and one copy of the filing will be delivered to the Commission on May 24, 2010 (with attachments under seal); and, that, on May 24, 2010, electronic mail notification of the electronic filing will be provided to the Commission and the following:

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