

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY-AMERICAN WATER)
COMPANY FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY AUTHORIZING) CASE NO. 2012-00096
THE CONSTRUCTION OF WATER TRANSMISSION)
MAINS, BOOSTER PUMP STATION AND TWO)
ELEVATED STORAGE TANKS FOR THE)
NORTHERN DIVISION CONNECTION)

PETITION OF KENTUCKY-AMERICAN WATER COMPANY
FOR CONFIDENTIAL PROTECTION OF AS-BUILT DRAWINGS

Kentucky-American Water Company (“KAW”) hereby petitions the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13, and KRS 61.878 to grant confidential protection for the items described herein, which KAW is providing in accordance with Ordering Paragraph 5 of the Commission’s February 28, 2013 Order in this case. In support of this Petition, KAW states as follows:

1. The Kentucky Open Records Act exempts from disclosure certain public safety information. KRS 61.878(1)(m). To qualify for the exemption and, therefore, maintain the confidentiality of the information, a party must establish that the material is of a kind generally recognized to be confidential or proprietary.

2. Ordering Paragraph 5 of the Commission’s February 28, 2013 Order requires KAW to file a copy of the “as-built” drawings of the construction authorized in that Order. Those drawings reveal critical utility infrastructure which, if disclosed publicly, would threaten public safety. KRS 61.878(1)(m)1.f exempts from disclosure the following: “Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the

location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to ... water ... systems[.]” This information is highly confidential, the disclosure of which could be useful to anyone seeking to threaten or harm public safety. It is therefore highly confidential and must be protected from public disclosure. The entire set of drawings is confidential, and, therefore, they are not highlighted as permitted by 807 KAR 5:001, Section 13(2)(a)3.

3. If the Commission disagrees with this request for confidential protection, it must hold an evidentiary hearing (a) to protect Kentucky American’s due process rights and (b) to supply with the Commission with a complete record to enable it to reach a decision with regard to this matter. Utility Regulatory Commission v. Kentucky Water Service Company, Inc., 642 S.W.2d 591, 592-94 (Ky. App. 1982).

4. The information for which KAW is seeking confidential treatment is not known outside of KAW and its consultants, is not disseminated within KAW except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information in the water industry. Due to its public safety nature, KAW requests that the information be treated confidentially indefinitely.

WHEREFORE, KAW respectfully requests that the Commission grant confidential protection 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.

Dated: April 30, 2014

Respectfully submitted,

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By:



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CERTIFICATE OF COMPLIANCE

In accordance with Ordering Paragraph Nos. 10 and 16 of the Commission's March 20, 2012 Order, this certifies that Kentucky-American Water Company's April 30, 2014 electronic filing is a true and accurate copy of the documents being filed in paper medium except that the confidential information is not being filed electronically; that the electronic filing has been transmitted to the Commission on April 30, 2014; that there are currently no parties that the Commission has excused from participating by electronic means in this proceeding; and that a copy of the filing in paper medium is being hand-delivered to the Commission on April 30, 2014.

By:



Attorney for Kentucky-American Water Company