

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

Application of Water Service Corporation)
of Kentucky for a General Adjustment) Case No. 2013-00237
in Existing Rates)

**WATER SERVICE CORPORATION OF KENTUCKY'S
AMENDED SECOND PETITION FOR CONFIDENTIALITY**

Water Service Corporation of Kentucky (“WSCK”), pursuant to 807 KAR 5:001, Section 13, respectfully requests the Public Service Commission grant confidential protection to certain information provided in response to Item 3 of the Commission Staff’s First Request for Information. In support of its amended petition,¹ WSCK states as follows:

Administrative Regulation 807 KAR 5:001, Section 13, indicates that the Commission shall grant confidential treatment for records that would be exempt from KRS 61.878 of the Kentucky Open Records Act. KRS 61.878(1)(a) protects information of a personal nature from being disclosed by a public agency. The Kentucky Court of Appeals has identified an individual’s salary as information of a personal nature. See Zink v. Department of Workers’ Claims, Labor Cabinet, 902 S.W.2d 825, 828 (Ky. App. 1994) (stating that “information such as . . . wage rate . . . [is] generally accepted by society as [a] detail [] in which an individual has at least some expectation of privacy.”)

In Item 3 of the Commission Staff’s First Request for Information, Staff has requested work papers used by WSCK to develop pro forma test-period financial information. These work

¹ WSCK submits this amended petition in response to the letter from Jeff Derouen, Executive Director of the Commission, which was filed in the record of this case on January 6, 2014.

papers included WSCK employees' names and their salaries. Because this information is of a personal nature, it is entitled to confidential treatment under Zink and other relevant law. In fact, the Public Service Commission has made this determination in previous cases. See Letter from Jeff DeRouen, Executive Director of the Public Service Commission, to John N. Hughes, counsel for WSCK (Apr. 24, 2009) (copy attached).

On October 11, 2013, WSCK initially filed its responses to Commission Staff's First Information Request. In that filing, WSCK inadvertently filed a response to Item 3 containing information of a personal nature without seeking confidential treatment, although it sought confidential treatment for the same material used in response to Item 11. Because the information deserves confidential treatment, WSCK formally requests that the Commission remove from public access WSCK's response to Item 3 from its October 11, 2013, filing.² A redacted version of WSCK's response to Item 3 to Commission Staff's First Information Request was filed on October 22, 2013.

Accordingly, WSCK respectfully requests confidential treatment of information mentioned above in perpetuity, as this information is no less personal through the passage of time.

Respectfully submitted,



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² Prior to the filing of the petition on October 22, 2013, WSCK's counsel contacted Commission Staff with this request and Commission Staff caused the response to be removed from the Commission's publicly accessible website.

ATTORNEYS FOR WATER SERVICE CORPORATION
OF KENTUCKY



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David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

John W. Clay
Commissioner

April 24, 2009

Hon. John N. Hughes
124 West Todd Street
Frankfort, Kentucky 40601

Re: Water Service Corporation of Kentucky
Petition for Confidential Treatment received March 5, 2009
PSC Reference: Case No. 2008-00563

Dear Mr. Hughes:

The Public Service Commission has received the Petition for Confidentiality you filed on March 5, 2009 on behalf of Water Service Corporation of Kentucky, to protect certain information filed with the Commission as confidential under Section 7 of 807 KAR 5:001 and KRS 61.870 et. seq. The information you seek to have treated as confidential is described as information contained in its schedules attached to its application, and specifically described as the Independent Auditor's Report, Exhibit 12; the Distribution of Expenses Report, Exhibit 16; and certain schedules in Exhibit 4 which contains employee wages and salaries. Your justification for having the Commission handle this material as confidential is that the public disclosure of the information would compromise their competitive position in the industry and result in an unfair commercial advantage to their competitors, and that Exhibit 4 contains information of a personal nature.

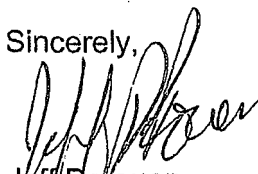
Based on a review of the information and pursuant to KRS 61.878 and 807 KAR 5:001, Section 7, the Commission has determined that you have failed to demonstrate that the information you seek to keep confidential in Exhibit 12 and Exhibit 16 is "generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to {your} competitors..." as set forth in KRS 61.878(c)(1), and therefore does not meet the criteria for confidential protection, and is hereby **DENIED**.

The Commission in its review of the information in Exhibit 4 contained in your Petition has concluded that only a portion of the information contained in Exhibit 4 meets the criteria for confidential protection. KRS 61.878(1)(a) authorizes confidentiality for information of a personal nature, i.e. the name of an individual. However, the position

and salary are not subject to withholding under KRS 61.878(1)(a) as they are not of a "personal nature". Therefore, in order to afford confidential protection to the names of the individuals listed in Exhibit 4, Water Service Corporation of Kentucky will need to provide the Commission within 20 days, a redacted version excluding only the names of the individuals if you want it to remain confidential. Your Petition is therefore **DENIED** as to those portions of Exhibit 4 other than the individuals' names. The remaining information contained in Exhibit 4 does not meet the criteria for confidentiality and therefore cannot be redacted.

The information denied confidential treatment will be withheld from public inspection for 20 days from the date of this letter in accordance with 807 KAR 5:001. If you disagree with the Commission's decision, you may seek a rehearing with the Commission within 20 days of the date of this letter under the provisions of KRS 278.400.

Sincerely,



Jeff DeFouen
Executive Director

kg/

cc: Parties of Record