

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
FOURTH 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 the Attorney General’s Second Request for Information. In support of its motion, 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 17 of the Attorney General’s Second Request for Information, the Attorney General has requested that WSCK provide components of employees’ 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 with respect to the redaction of names as to their corresponding salaries. See Letter from Jeff DeRouen, Executive Director of the Public Service Commission, to John N. Hughes, counsel for WSCK (Apr. 24, 2009)(copy previously filed in this case). Accordingly, WSCK has provided a public version with redactions of its Kentucky staff and Customer Service Representative staff. WSCK is treating this information the same as it did with its first Petition for Confidentiality in this matter. See Amended Petition for Confidentiality, Case No. 2013-00237 (filed Jan. 8, 2014).

In addition, the Kentucky Open Records Act protects records that are “confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.” KRS 61.878(1)(c)(1). This exception “is aimed at protecting records of private entities which, by virtue of involvement in public affairs, must disclose confidential or proprietary records to a public agency, if disclosure of those records would place the private entities at a competitive disadvantage.” Ky. OAG 97-ORD-66 at 10 (Apr. 22, 2008).

Accordingly, WSCK is also seeking confidential treatment of the entire salary information related to its corporate employees, which have not been previously disclosed to the Commission or to the public. In fact, most UI corporate employees do not have access to this information. These salaries must remain confidential because, if they are openly disclosed, business competitors could poach UI employees, leaving UI and WSCK at a significant competitive disadvantage. In addition, courts have had that salary information, including raises, “would be of potential benefit to persons or firms in economic competition with” another

company. Am. Postal Workers Union, AFL-CIO v. U.S. Postal Serv., 742 F. Supp. 2d 76, 81 (D.D.C. 2010). Therefore, the documents with salary information for UI's corporate headquarters should be granted confidential treatment in their entirety.

Accordingly, WSCK respectfully requests confidential treatment in perpetuity of information mentioned above because it will become no less personal over the passage of time and because competitors will be able to continue to learn about the business practices of UI into the indefinite future if UI's corporate salaries are disclosed. Pursuant to 807 KAR 5:001, Section 13(2)(a)(3), WSCK shall provide a copy of the material above that would disclose confidential information and will provide cover pages identifying other materials for which confidential treatment is sought for the entire document.

Respectfully submitted,



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