

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
)
APPLICATION OF KENTUCKY-AMERICAN)
WATER COMPANY FOR AN ADJUSTMENT) **CASE NO. 2015-00418**
OF RATES)

PETITION FOR CONFIDENTIAL PROTECTION FOR THE RESPONSE TO ITEM NO. 22 OF THE ATTORNEY GENERAL’S INITIAL REQUEST FOR INFORMATION

Kentucky-American Water Company (“KAWC”) moves the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13, and KRS 61.878 to grant confidential treatment to the information described herein that is being provided in response to Item No. 22 of the Attorney General’s (“AG”) Initial Request for Information. In support of this Petition, KAWC states as follows:

On March 7, 2016, the AG issued its Initial Request for Information to KAWC. On March 18, 2016, KAWC objected to a portion of Item No. 22 of the Initial Request, which sought the authorized and earned return on common equity for KAWC and the other operating utility subsidiaries of American Water over the past five years. KAWC provided its authorized and earned returns, as well as the authorized returns on common equity for the other operating subsidiaries, but objected to providing the earned returns for those subsidiaries. On June 17, 2016, the Commission ordered KAWC to provide the earned returns for the other operating subsidiaries. These earned returns are confidential.

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.

The financial data compiled in this response is not publicly available in this manner. While KAWC had no issue publicly disclosing its earned returns, the aggregation provided in response to Item No. 22 is confidential to American Water and would give competitors material financial data about the operating subsidiaries that such competitors could not otherwise get. This information relates directly to the financial health of these companies, and provides competitors, vendors, and other interested parties with information that could be used against the affected utilities in contract negotiations, potential acquisitions, and regulatory proceedings. While KAWC respects the Commission's order and is fully providing this information, these other subsidiaries are not regulated by the Commission and KAWC therefore requests that this critical financial information be treated confidentially.

KAWC requests that the information be held confidentially in perpetuity. KAWC cannot envision a period of time in which it would be appropriate for other subsidiaries' proprietary financial information to be disclosed in the public realm.

The above description demonstrates that the information provided in response to Item No. 22 merits 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., 642 S.W.2d 591, 592-94 (Ky. App. 1982).

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. KAWC is filing one paper copy

under seal that identifies the information for which confidential protection is sought and one electronic copy with the same information obscured. Because the AG has also requested the information in Excel, KAWC is also filing a confidential compact disc with the information. Because the entire Excel file is confidential, KAWC is unable to upload a public version of the Excel file to the Commission's web portal.

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.

Date: June 24, 2016

Respectfully submitted,

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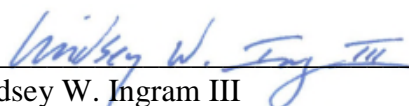
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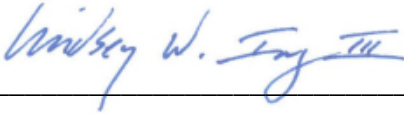


Lindsey W. Ingram III
Monica H. Braun

CERTIFICATE

This certifies that Kentucky-American Water Company's electronic filing is a true and accurate copy of the documents to be filed in paper medium with the exception of documents for which confidential treatment is sought; that the electronic filing has been transmitted to the Commission on June 24, 2016; that a paper copy of the filing will be delivered to the Commission within two business days of the electronic filing; and that no party has been excused from participation by electronic means.

STOLL KEENON OGDEN PLLC

By: 

Attorneys for Kentucky-American Water Company