

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
)
THE VERIFIED JOINT APPLICATION OF)
EASTERN ROCKCASTLE WATER ASSOCIATION) **CASE NO. 2017-00383**
AND KENTUCKY-AMERICAN WATER COMPANY)
FOR THE TRANSFER OF CONTROL AND ASSETS)

PETITION FOR CONFIDENTIAL PROTECTION

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. 1 of the Commission Staff’s First Request for Information. In support of this Petition, KAWC states as follows:

On October 25, 2017, Commission Staff tendered its First Request for Information. Item No. 1 requests “all documentation relating to Joint Applicants’ authorization of the Asset Purchase Agreement (“APA”) by which Kentucky American will acquire Eastern Rockcastle’s assets.”

The Kentucky Open Records Act exempts from disclosure documents that are “recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors.” KRS 61.878(1)(c)(1). In response to Item No. 1, KAWC is providing a copy of an evaluation performed by the CDC, which is a committee comprised of KAWC and American Water personnel that evaluates and approves acquisition opportunities. The evaluation shows the precise framework by which KAWC and American Water assess potential acquisitions. If this information was publicly disclosed, owners of

potential water and wastewater systems could manipulate the negotiation process based on their knowledge of the factors considered; how strengths and weaknesses are assessed; and the types of information KAWC and American Water deem material. In short, if publicly disclosed, potential sellers will have the “playbook” with respect to acquisitions. The Commission granted confidential protection to this same CDC document in a 2016 proceeding involving KAWC’s acquisition of Ridgewood wastewater assets. *See In the Matter of: Joint Application of Classic Construction, Inc. and Kentucky-American Water Company for the Transfer of the Ridgewood Wastewater Assets* (Case No. 2016-00222) (Ky. PSC Sept. 15, 2016).

KAWC is also providing in response to this request its Amended and Restated Authorization and Limitation of Corporate Authority, which is a confidential internal procedure delineating the delegation of authority. KAWC’s policies and procedures, such as the one produced in response to this request, are the product of extensive time and money invested by KAWC’s parent company, American Water. This policy consists of commercial information that is confidential and proprietary, the disclosure of which would unfairly advantage American Water’s and KAWC’s competitors. If those competitors have free access to the same information that American Water expended substantial resources to develop, they will derive an unfair commercial advantage. The Commission has previously granted confidential protection to other KAWC policies and procedures. *See In the Matter of: Application of Kentucky-American Water Company for an Adjustment of Rates Supported by a Fully Forecasted Test Year* (Case No. 2012-00520) (Ky. PSC April 17, 2014).

The information for which KAWC is seeking confidential treatment is not known outside of KAWC, and it is not disseminated within KAWC except to those employees with a legitimate business need to know the information.

KAWC requests that the information be held confidentially in perpetuity. KAWC cannot envision a period of time in which it would be appropriate for this sensitive information to be disclosed in the public realm.

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).

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.

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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CERTIFICATE

This certifies that the electronic filing of this document is a true and accurate copy of the documents to be filed in paper medium; that the electronic filing has been transmitted to the Commission on November 6, 2017; that paper copies 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.

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