

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

In the Matter of:

Electronic Application of Water Service	)	
Corporation of Kentucky for a General	)	Case No. 2018-00208
Adjustment in Existing Rates	)	

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**PETITION FOR CONFIDENTIALITY**

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Water Service Corporation of Kentucky (“WSCK”), by counsel and pursuant to 807 KAR 5:001, Section 13, respectfully requests the Public Service Commission to grant confidential protection to its response related to Items 6, 30, and 31 of Commission Staff’s Second Request for Information.

Administrative Regulation 807 KAR 5:001, Section 13(2) sets forth the procedure by which certain information filed with the Commission shall be treated as confidential. Specifically, the party seeking confidential treatment must establish “specific grounds pursuant to KRS 61.878 [the Kentucky Open Records Act] for classification of that material as confidential.” 807 KAR 5:001, Section 13(2)(a)(1).

**I. Response to Item 6 of the Commission Staff’s Second Information Request**

The Kentucky Open Records Act exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878(1)(a) exempts from disclosure “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” In enacting this provision, the

General Assembly acknowledged “that personal privacy is of legitimate concern and worthy of protection from invasion by unwarranted public scrutiny.” *Kentucky Bd. of Exam'rs of Psychologists v. Courier–Journal*, 826 S.W.2d 324, 327 (Ky. 1992). The information being provided by WSCK in response to Item 6 of the Commission Staff’s Second Request for Information contains personal information that public disclosure would result in a clearly unwarranted invasion of personal privacy, as described in the response.

Accordingly, WSCK requests that its response to Item 6 of the Commission Staff’s Second Request for Information receive confidential treatment for the next three months.

## **II. Response to Items 30 and 31 of the Commission Staff’s Second Information Request**

The Kentucky Open Records Act exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878(1)(c)(1) exempts from disclosure:

Records 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.

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).

Item 30 of the Commission Staff’s Second Request for Information seeks salary and benefit information for utility employees. The Company does not publicly disclose employees’ salaries and wages. Similarly, it does not publicly disclose individual employees’ benefits. This confidential employee compensation information, if disclosed, would enable competitors to


attempt to recruit key WSCK and Water Service Corporation personnel, and would compromise the Company's position in negotiating employee compensation terms. This is especially true for highly specialized personnel that are vital within the utility industry. This information is sensitive and is only available on a need-to-know basis, even within WSCK. Public disclosure of this information is likely to result in increased costs and a loss of negotiating ability for the Company. Disclosure of this information also increases the risk of a higher cost of service resulting from greater employee compensation demands and higher costs to recruit and retain skilled employees and managers.

Likewise, disclosure of the type of medical insurance coverage a particular individual elects is personal information that, if disclosed, could constitute a clearly unwarranted invasion of personal privacy. Disclosure of this information can identify familial circumstances not otherwise known to the public. Accordingly, KRS 61.878(a) prohibits disclosure of this type of information.

The Commission has awarded confidential treatment to salary and wage information in at least one other utility rate case. See Orders dated July 20, 2017, August 23, 2017, and June 19, 2018 in Kentucky Power Company, P.S.C. Case No. 2017-00179.

Accordingly, WSCK requests that the redacted information in its response to Items 30 and 31 of the Commission Staff's Second Request for Information receive permanent confidential treatment. WSCK will produce both sets of materials to parties in this proceeding that enter into a mutually agreeable confidentiality agreement.

Respectfully submitted,



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### **CERTIFICATE OF COMPLIANCE**

In accordance with 807 KAR 5:001, Section 8(7), this is to certify that WSCK's August 28, 2018, electronic filing is a true and accurate copy of the documents being filed in paper medium; that the electronic filing has been transmitted to the Commission on August 28, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and a copy of the filing are being delivered to the Commission within two (2) business days.



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Counsel for WSCK