

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

ELECTRONIC APPLICATION OF)	
KENTUCKY-AMERICAN WATER)	CASE NO. 2018-00358
COMPANY FOR AN ADJUSTMENT OF)	
RATES)	

PETITION FOR CONFIDENTIAL TREATMENT

Kentucky-American Water Company (“Kentucky American Water”) petitions the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878 to grant confidential protection for the material described herein, which Kentucky American Water provides in accordance with the Commission’s November 12, 2019 Order in this matter. That Order requires Kentucky American Water to file information regarding contracts issued for projects undertaken under the Qualified Infrastructure Program (“QIP”) the Commission approved in this matter. In support of this Petition, Kentucky American Water states as follows:

Confidential or Proprietary Commercial Information (KRS 61.878(1)(c)(1))

1. The Kentucky Open Records Act exempts from disclosure certain commercial information.¹ To qualify for the exemption and, therefore, maintain the confidentiality of the information, a party must establish that the material is of a kind generally recognized to be confidential or proprietary, the disclosure of which would place the party seeking confidentiality at an unfair commercial advantage.

2. The Commission’s November 12, 2019 Order requires contracts issued for QIP projects to be filed with the Commission. Those contracts contain confidential pricing

¹ KRS 61.878(1)(c).

information, the disclosure of which would harm Kentucky American Water's ability to negotiate future contracts at advantageous prices. The contracts contain confidential price quotes, unit prices, and private data related to the contractor's diversity spend. Disclosure of this information could make vendors less likely to work with Kentucky American Water. Additionally, publicly disclosing the price quotes and unit prices would hinder Kentucky American Water's ability to receive the best proposals and procure the best contract terms in future negotiations for similar projects. It would reduce, if not eliminate, contractors' incentive to provide their most competitive bids. Diminishing Kentucky American Water's ability to receive the best prices would harm both Kentucky American Water and its customers through increased costs of service. Thus, the Commission should grant confidential protection to the confidential portions of these documents.

The Confidential Information Subject to this Petition

3. The information for which Kentucky American Water is seeking confidential treatment pursuant to KRS 61.878 is not known outside of the utility, is not disseminated within Kentucky American Water except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information within the utility industry.

4. Kentucky American Water will disclose the confidential information (pursuant to a confidentiality agreement) to intervenors and others with a legitimate interest in this information and as required by the Commission.

5. If the Commission disagrees with this request for confidential protection, however, it must hold an evidentiary hearing (a) to protect the Companies' due process rights and (b) to

supply the Commission with a complete record to enable it to reach a decision with regard to this matter.²

6. In compliance with 807 KAR 5:001, Section 13(2)(e), Kentucky American Water is filing with the Commission one electronic copy that identifies in highlight the information for which confidential protection is sought and one electronic copy with the same information obscured. There is a small amount of information in the contracts consisting of personal and private contractor e-mail addresses and phone numbers which have been obscured in both copies in accordance with 807 KAR 5:001, Section 4(10)(a)7.

7. Due to the proprietary nature of the information at issue, Kentucky American Water requests that the information remain confidential indefinitely.

WHEREFORE, the Kentucky-American Water Company respectfully requests that the Commission grant confidential protection for the information described herein.

² Utility Regulatory Commission v. Kentucky Water Service Company, Inc., 642 S.W.2d 591, 592-94 (Ky. App. 1982).

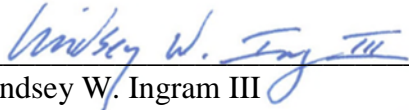
Date: March 1, 2021

Respectfully submitted,

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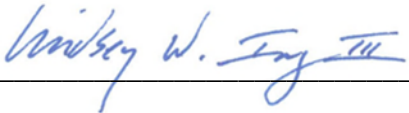
By: 

Lindsey W. Ingram III
Monica H. Braun

CERTIFICATE

In accordance with 807 KAR 5:001 Section 8(7) and the Commission's March 16, 2020 Order in Case No. 2020-00085, this is to certify that Kentucky-American Water Company's electronic filing was transmitted to the Commission on March 1, 2021; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that a physical copy of the filing will be submitted to the Commission once the State of Emergency has ceased.

STOLL KEENON OGDEN PLLC

By: 

Attorneys for Kentucky-American Water Company