

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

Electronic Proposed Acquisition by Bluegrass)
Water Utility Operating Company, LLC and)
the Transfer of Ownership and Control of)
Assets by: P.R. Wastewater Management, Inc.;) No. 2019-00104
Marshall County Environmental Services LLC;)
LH Treatment Company, LLC; Kingswood)
Development, Inc.; Airview Utilities, LLC;)
Brocklyn Utilities, LLC; Fox Run Utilities,)
LLC; and, Lake Columbia Utilities, Inc.)

Bluegrass Water’s Motion for Confidential Treatment of Information

Applicant Bluegrass Water Utility Operating Company, LLC (“Bluegrass Water”) respectfully submits this Motion pursuant to 807 KAR 5:001, Section 13, for confidential treatment of certain information responsive to the Attorney General’s Post-Hearing Data Requests in this case. In support of this Motion, Bluegrass Water states as follows:

1. On this date, the Joint Applicants filed their Responses to the Attorney General’s Post-Hearing Data Requests for Information (“AG Post-Hearing Request _”)
2. The Attorney General’s Post-Hearing Data Request No. 5 seeks the Balance Sheet and Income Statement previously provided as JA Exhibit L, except with amounts as of June 30, 2019. This consolidated balance sheet and income statement contains confidential and proprietary information relating to the business of CSWR, LLC (f/k/a First Round CSWR LLC) and its CSWR Group affiliates. Confidential treatment is sought for the dollar amounts in this Balance Sheet and Income Statement as of June 30, 2019, and Bluegrass Water hereby adopts in full the arguments supporting confidential treatment for JA Exhibit L from its initial Motion for Confidential Treatment filed April 16, 2019. The 6/30/19 Balance Sheet and Income Statement has

been redacted in the publicly-filed copies and the material for which confidential treatment is sought has been highlighted in the unredacted copy filed under seal.

3. The Attorney General's Post-Hearing Request No. 7 requested copies of the capital investment worksheets that accompanied the engineering memos already provided in the record that support amounts presented in JA Exhibit N. These construction estimates were made for each of the nine systems to be transferred as part of Bluegrass Water's due diligence for purposes of the proposed acquisition. As represented in paragraph 55 of the Joint Application, Bluegrass Water engaged an independent engineer to assess each system and provide a detailed evaluation of the status of each system as well as any deficits or needed improvements. The construction estimates accompanied the respective engineering memos provided as part of the response to 1 PSC 13. The totals shown on each attached estimate support the engineering portion of the Construction Work in Progress amount shown for each corresponding system on JA Exhibit N (confidential) page 1.

4. Confidential treatment is sought for these construction estimates, and Bluegrass Water hereby adopts in full the arguments supporting confidential treatment for the engineering memos (JA_00163-197) from its Motion for Confidential Treatment filed May 31, 2019, as well as JA Exhibit N. The construction itemization and dollar estimates have been redacted in the publicly-filed response; the material for which confidential treatment is sought has been highlighted in the unredacted copy filed under seal. Redacted copies of these estimates are attached to this Motion.

5. The information in the construction estimates for which Bluegrass Water seeks confidential treatment is not publicly disseminated and public disclosure of this information would harm Bluegrass Water. The estimates reveal information regarding the internal ability and

workings of Bluegrass Water and its affiliates; specifically, how they evaluate potential systems for acquisition and the internal processes by which they respond to various issues that arise in similar wastewater systems to develop Construction Work in Progress amounts. Such processes are “trade secrets” as defined by KRS 365.880(4) and fall within the scope of the trade secret exemption from disclosure pursuant to KRS 61.878(c). If these trade secrets contained within the construction estimates do not receive confidential treatment, the risk of harm would be unnecessarily increased that Bluegrass Water and its affiliates would suffer a serious business injury and these trade secrets would be misappropriated by other competitors in the wastewater industry.

6. Bluegrass Water further seeks confidential treatment for the construction estimates because these are also proprietary. Bluegrass Water expended funds with a third party as part of its due diligence in investigating these systems. Bluegrass Water therefore should not be forced to share this information publicly to its possible detriment. If this information were shared publicly, and especially in the event that the Application is denied, Bluegrass Water would suffer harm because it would give other potential purchasers and competitors a “leg-up” with the systems discussed in the report and lessen competition in a subsequent bidding process. Such disclosure would also be costly in the future when attempts to acquire similarly distressed systems are made and Bluegrass Water’s ability to negotiate terms specific to a particular utility and its circumstances has been compromised.

7. The Balance Sheet and Income Statement produced in response to Attorney General Post-Hearing Data Request No. 5 for which Bluegrass Water seeks confidential treatment is not publicly disseminated and public disclosure of this information would harm Bluegrass Water and its affiliates. Bluegrass Water’s responses reveal information regarding internal

financial ability and workings of the CSWR Group. The sensitive, commercially-valuable, financial and inter-affiliate transaction information contained in the Balance Sheet and Income Statement is not publicly distributed or disseminated outside of the CSWR Group. An example of potential harm if this information is disclosed is that consolidated financials would give competitors sensitive information about Bluegrass Water and CSWR Group's acquisition strategy and capability and its valuation of systems, their problems, and potential.

8. Under KRS 61.878(1)(c)(1), commercial information generally recognized as confidential is protected if disclosure would cause competitive injury and give competitors an unfair commercial advantage. The Commission has previously recognized this exact situation regarding confidential treatment as it did, for example, in Ky. PSC Case No. 2017-00383 in an Order granting confidential treatment filed on February 8, 2018. In the February 8, 2018 Order, the Commission recognized that Kentucky-American Water Company was entitled to confidential treatment for its confidential and proprietary documents due to the danger of unfair commercial advantage to competitors if disclosed. As in the Kentucky American case, public disclosure of the information in the identified construction estimates and updated balance sheet may cause competitive harm to Bluegrass Water and its affiliates as well as the transferring utilities and could cause a lessening of competition in subsequent bidding processes in the event the Commission denies the Joint Application or the proposed acquisition otherwise fails to close.

9. If the Commission disagrees with Bluegrass Water that the materials for which this Motion seeks confidential treatment are exempt from disclosure, it must hold an evidentiary hearing to protect the due process rights of Bluegrass Water and permit the opportunity to supply the Commission with a complete record to enable it to reach a decision with regard to this confidentiality request.

10. Pursuant and subject to a previously executed confidentiality agreement with the Attorney General's Office, Bluegrass Water will disclose the unredacted construction estimates and other confidential information identified above to the Attorney General's Office.

11. In compliance with 807 KAR 5:001, Section 8(3) and 13(2)(3), Bluegrass Water is filing with the Commission one paper copy of the construction estimates and Updated Balance Sheet and Income Statement, entirely unredacted and with highlighting of the material for which confidential treatment is sought. The unredacted paper copy is filed under seal; redacted pages of the subject reports are being publicly filed with the electronic copy of this Motion.

12. 807 KAR 5:001, Section 13(2)(a)(2) provides that a motion for confidential treatment shall state the time period in which the material should be treated as confidential and the reasons for this time period. Movants respectfully submit that five years from the date of the filing of the Joint Application is a reasonable period of time for the material to be treated as confidential in light of the competitive conditions in the water and wastewater industries.

WHEREFORE, Bluegrass Water respectfully requests that the Commission grant confidential treatment of the information described herein and shown as redacted on the attached publicly-filed documents and responses to Attorney General's Post-Hearing Data Requests.

Respectfully submitted,

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MOTION ATTACHMENTS

(redacted versions are filed herewith; unredacted, highlighted versions are filed under seal)

Updated Balance Sheet and Income Statement through June 30, 2019

Construction Estimates

Balance Sheet

Current Assets	
Cash	
Accounts Receivable	
Other Current Assets	
Total Current Assets	
Property, Plant & Equipment, Net	
Misc Long-Term Assets	
Pre-Survey Investment	
Unamortized Debt Expense	
Other Long-Term Assets	
Total Misc Long-Term Assets	
Deferred Income Tax Asset, Net	
Total Assets	
Current Liabilities	
Accounts Payable	
Other Current Liabilities	
Total Current Liabilities	
Long-Term Liabilities	
Notes Payable	
CIAC	
Other Long-Term Liabilities	
Total Long-Term Liabilities	
Capitalization	
Paid-In Capital	
Retained Earnings	
Net Income	
Total Capitalization	
Total Liabilities and Capitalization	

Statement of Income

Revenue	
Operating Revenue	
Other Revenue	
Total Revenue	
Expense	
Operations & Maintenance	
General & Admin	
Total Expense	
EBITDA	
Interest	
Depreciation & Amortization	
Income Taxes	
Net Income (Loss)	

This was the original estimate provided with the Engineering Memo 20181231
Persimmon Ridge (P.R. Wastewater) 350 Customers 87,500 gpd

CONSTRUCTION ITEM	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
— Redacted —		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
SUBTOTAL				
Surveying Fees				
Engineering (To be determined)				
Contingency(10%)				
TOTAL				
* Manufacturer has not provided analysis approach for equipment and using as a partial pilot system;				
Estimate assumes all pump stations do not need improvements. No issues were provided to Engineer at time of preparing this estimate.				

This was the original estimate provided with the Engineering Memo
Great Oaks

161 Customers

32,200 gpd

20190219

CONSTRUCTION ITEM	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
— Redacted —				
SUBTOTAL				
Surveying Fees				
Engineering (To be determined)				
Contingency(10%)				
TOTAL				
This estimate was prepared without a site visit by the Engineer and utilizing information gathered by CSWR.				

This was the original estimate provided with the Engineering Memo

20190217

Golden Acres

31 Customers

6,200 gpd

CONSTRUCTION ITEM	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
— Redacted —		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
SUBTOTAL				
Surveying Fees				
Engineering (To be determined)				
Contingency(10%)				
TOTAL				
This estimate was prepared without a site visit by the Engineer and utilizing information gathered by CSWR.				

This was the original estimate provided with the Engineering Memo 20190216
LH Treatment 277 Customers 55,000 gpd

CONSTRUCTION ITEM	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
— Redacted —		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
SUBTOTAL				
Surveying Fees				
Engineering (To be determined)				
Contingency(10%)				
TOTAL				
This estimate was prepared without a site visit by the Engineer and utilizing information gathered by CSWR.				

This was the original estimate provided with the Engineering Memo
Kingswood

124 Customers 24,800 gpd 20190402

CONSTRUCTION ITEM	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
<p>— Redacted —</p>		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
SUBTOTAL				
Surveying Fees				
Engineering (To be determined)				
Contingency(10%)				
TOTAL				
<p>This estimate was prepared without a site visit by the Engineer and utilizing information gathered by CSWR. More information is needed prior to finalizing this estimate.</p>				

This was the original estimate provided with the Engineering Memo
Airview

203 Customers

50,750 gpd

20181222

CONSTRUCTION ITEM	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE				
<p>— Redacted —</p>								
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
							Lump Sum	
					SUBTOTAL			
Surveying Fees								
Engineering (To be determined)								
Contingency(10%)								
TOTAL								
Design will need to evaluate actual size of facility. The loading appears to be exceeding the aeration tank capacity.								

This was the original estimate provided with the Engineering Memo 20181226
Brocklyn 168 Customers 42,000 gpd

CONSTRUCTION ITEM	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
— Redacted —		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
SUBTOTAL				
Surveying Fees				
Engineering (To be determined)				
Contingency(10%)				
TOTAL				
Design will need to evaluate actual size of facility. The aeration tank size appears to be borderline in regards to capacity to service this community.				

This was the original estimate provided with the Engineering Memo 20181231

Fox Run 34 Customers 8,500 gpd

CONSTRUCTION ITEM	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
— Redacted —		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
SUBTOTAL				
Surveying Fees				
Engineering (To be determined)				
Contingency(10%)				
TOTAL				
Design will need to evaluate actual size of facility. The aeration tank size appears to be borderline in regards to capacity to service this community.				
Creek appeared to be clean of any sludge at site visit. No cost included for remediation				

This was the original estimate provided with the Engineering Memo

20181231

Lake Columbia

33 Customers

8,250 gpd

CONSTRUCTION ITEM	QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE
— Redacted —		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
		Lump Sum		
SUBTOTAL				
Surveying Fees				
Engineering (To be determined)				
Contingency(10%)				
TOTAL				
Design will incorporate new concept that needs to be evaluated for optimal performance.				
Cleanup creek is not in				