

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) No. 2019-00360
Control of Assets by: Center Ridge Water)
District, Inc.; Joann Estates Utilities, Inc.;)
and River Bluffs, 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 initial requests for information in this case. In support of this Motion, Bluegrass Water states as follows:

1. On this date, Applicants filed their Responses to Commission Staff’s First Request for Information (“1 PSC __”).
2. Commission Staff’s Request for Information No. 6 sought an itemized breakdown of certain costs incurred to date and expected to be incurred up to Closing. This information is included in the 1 PSC 6 attachment, numbered KY19-360JA_00039; 1 PSC 10 requested information regarding how Bluegrass Water will resolve violations cited by the Commission on utility plant proposed to be transferred.
3. Confidential treatment is being sought for the information contained in KY19-360JA_00039. The attachment 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. A redacted copy has also been attached to this Motion.

4. The anticipated-costs information in KY19-360JA_00039 is not publicly disseminated and public disclosure of this information would harm Bluegrass Water and its affiliates. The attachment reveals information regarding the internal financial ability and workings of Bluegrass Water and its affiliates. The sensitive, commercially-valuable, and financial information contained in KY19-360JA_00039 is not publicly distributed or disseminated outside of the CSWR group. The information for which confidential treatment is sought reveals aspects of Bluegrass Water's cost structure and acquisition process for utility assets that could be used by competitors to the business injury of Bluegrass Water and its affiliates.

5. Applicants previously sought confidential treatment for the engineering reports for each system, collectively attached to the Joint Application as redacted Exhibit G. These reports contain confidential and propriety information regarding the systems and the assets to be acquired. Confidential treatment is similarly sought for the report material used in the response to 1 PSC 10. In the publicly-filed response to 1 PSC 10 (and as attached to this Motion) such material is redacted; the material for which confidential treatment is sought has been highlighted in the unredacted copy filed under seal.

6. The parts of the response to 1 PSC 10 for which Bluegrass Water seeks confidential treatment are not publicly disseminated and public disclosure of this information would harm Bluegrass Water. This information indicates how Bluegrass Water and its affiliates evaluate potential systems for acquisition and the internal processes by which they respond to various issues that arise in similar water and wastewater systems. The response to 1 PSC 10 with information from Joint Application Exhibit G also demonstrates innovative and proprietary technology and processes developed through experience and used by CSWR group utilities to renovate small water and wastewater systems. 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 engineering reports 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 water and wastewater industries.

7. Bluegrass Water further seeks confidential treatment for the information obtained from the engineering reports for purposes of 1 PSC 10 because this information is 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.

8. The information about Bluegrass Water’s evaluation and acquisition of utility facilities could be used by competitors to the business injury of Bluegrass Water in other ways as well. An example of potential harm if not kept confidential is that it would give sensitive information about Bluegrass Water’s and its affiliates’ acquisition strategy and capability and valuation of systems, their problems, and potential.

9. Under KRS 61.878(1)(c)(1), commercial information generally recognized as confidential is protected if disclosure would cause competitive injury and permits competitors an

unfair commercial advantage. Public disclosure of the information in the identified Response may cause competitive harm to Bluegrass Water and its affiliates and could cause a lessening of competition in subsequent bidding processes, particularly in the event the Commission denies the Joint Application or a proposed acquisition otherwise fails to close.

10. If the Commission disagrees with Bluegrass Water that the material for which this Motion seeks confidential treatment is 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.

11. In compliance with 807 KAR 5:001, Section 8(3) and 13(2)(a)(3), Bluegrass Water is filing with the Commission one paper copy of KY19-360JA_00039 and the response to 1 PSC 10, entirely unredacted and with highlighting of the material for which confidential treatment is sought. The unredacted paper copies are filed under seal; redacted pages are being publicly filed as attachments to the electronic and paper copies 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. Movant respectfully submits that five years from the date of the filing of the Joint Application is a reasonable period of time for the identified 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 attachments hereto.

Respectfully submitted,

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MOTION ATTACHMENTS

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

KY19-360JA_00039

1 PSC 10 response

Anticipated Pre-Closing Costs


System	Engineering Design	Facility Report	Construction Services	Surveying Services	GIS database	Legal Fees	Closing Costs	Organizational Expenses	Total:
Center Ridge	— redacted —								\$ 69,500
Joann Estates									\$ 58,500
River Bluffs									\$ 63,500
TOTAL									\$ 191,500

Request

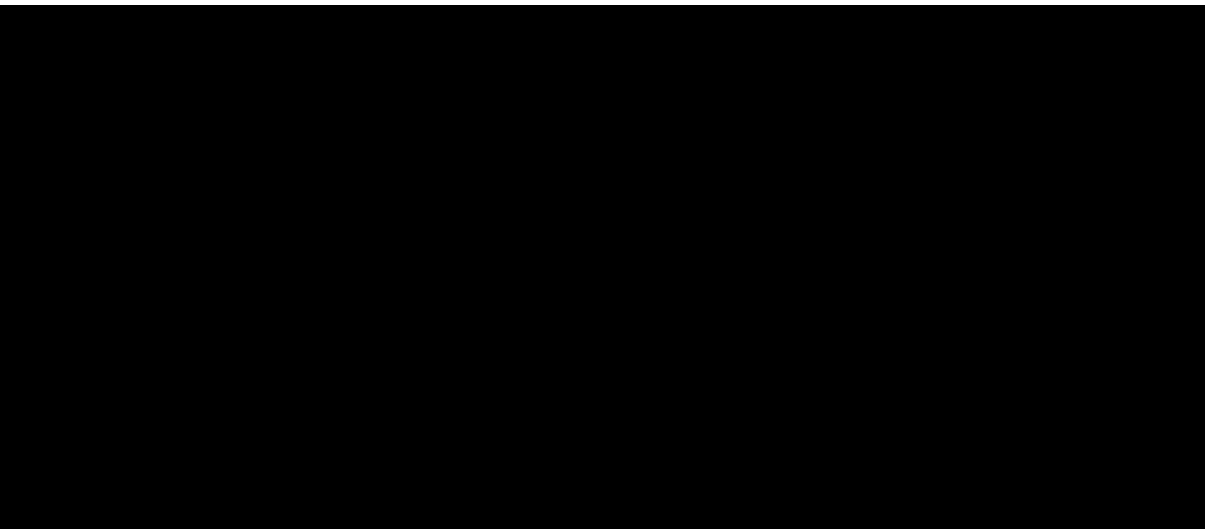
10. Explain how Bluegrass Water will resolve each of the outstanding violations cited by the Commission on all plants involved in the proposed transfer.
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Response

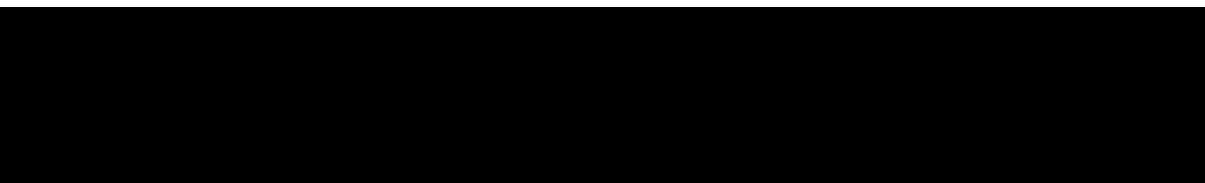
Bluegrass Water plans to address any unresolved identified deficiencies as follows:

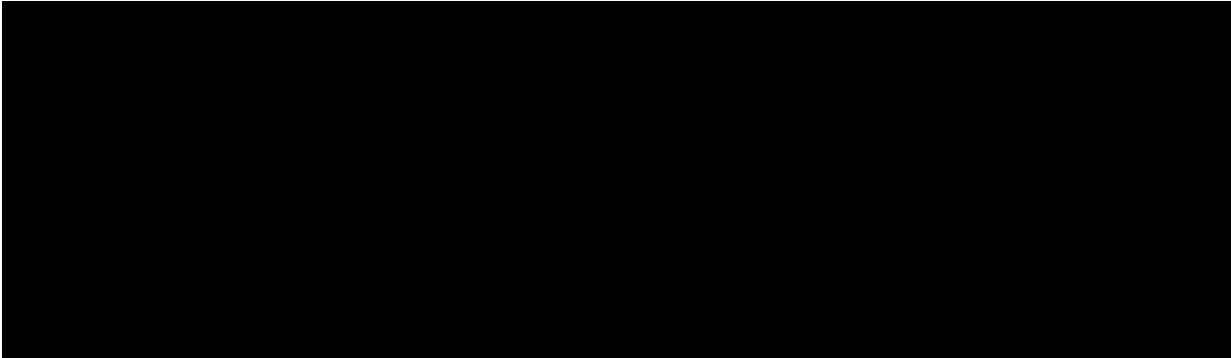
1. For Center Ridge, the deficiency identified was that the utility's minimum storage capacity did not equal the average daily consumption as required by 807 KAR 5:066, Section 4. Planned improvements are expected to include 

2. For Joann Estates, the deficiency identified was that the facility was not being properly operated and maintained as required. Planned improvements are expected to include:



3. For River Bluffs, the identified deficiency was that the facility was not being properly operated and maintained as required. Planned improvements are expected to include:





The engineering reports provided in Joint Application Exhibit G contain details of Bluegrass Water's current plans to address outstanding violations and/or deficiencies and to make operational improvements throughout the systems' plant to ensure that compliance is achieved in the long term.