

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

*Electronic Application of Bluegrass Water* )  
*Utility Operating Company, LLC for an* )  
*Adjustment of Rates and Approval of* )  
*Construction* )

Case No. 2020-00290

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**Bluegrass Water’s Motion for Confidential Treatment of Information**

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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 fourth round and post-hearing requests for information in this case.

In support of this Motion, Bluegrass Water states as follows:

1. Over the holiday weekend (May 28-31, 2021), Bluegrass Water filed additional substantive Responses to Commission Staff’s Fourth Request for Information (“4 PSC \_\_”), Responses to the Staff’s Post-Hearing Request for Information (“PSC ph \_\_”), and Responses to the Joint Intervenors’ Post-Hearing Data Requests (“INT ph \_\_”).

2. Bluegrass Water is seeking confidential treatment for the following Excel spreadsheets/workbooks, all of which are filed separately and provided under seal: *PSC 4-6 CONFIDENTIAL.xlsx* (responsive to 4 PSC 06); *Ops Cost Comparison-confidential.xlsx* (responsive to PSC ph DR 06 and INT ph DR 14); *INT ph DR 10-confidential.xlsx* (responsive to INT ph DR 10), and *INT ph DR 11-confidential.xlsx* (responsive to INT ph DR 11).

3. *PSC 4-6 CONFIDENTIAL.xlsx* provides sensitive information regarding the salaries of CSWR, LLC employees. *Ops Cost Comparison-confidential.xlsx*, responsive to PSC ph DR 06 and INT ph DR 14, provides information on the comparison of outsourcing versus employees to operate Bluegrass Water’s systems, and includes sensitive and proprietary salary

information, as well as other competitive information. For INT ph 10 and 11, Bluegrass Water provided an updated schedule (*INT ph DR 10-confidential.xlsx*) and a schedule with requested revisions (*INT ph DR 11-confidential.xlsx*), respectively, showing CSWR, LLC overhead allocations that reveal data about Bluegrass's utility affiliates in other jurisdictions.

4. The above-identified workbooks (and information therein) are not publicly disseminated and public disclosure of this information would harm CSWR because these documents reveal sensitive information regarding the internal financial ability and workings of CSWR, a non-party who is not a utility nor is subject to regulation by the Commission. The sensitive, commercially-valuable, and financial information contained therein is not publicly distributed or disseminated outside of CSWR. The sensitive, commercially-valuable, and financial information contained in the identified documents is only disseminated internally to certain personnel with permission or a business reason to use it and who are permitted to view these documents. The information in these workbooks for which confidential treatment is sought are treated as confidential by Bluegrass Water and its affiliates.

5. Disclosure of this information reveals Bluegrass's trade secrets and business practices for acquisition and expansion strategy and may affect its affiliates' ability to negotiate economically in future. The information about Bluegrass Water and its future business plans identified above, contained in the Excel workbooks/spreadsheets, 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 and CSWR Group's capability and its valuation of systems and their potential.

6. 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 workbooks for which Bluegrass Water seeks confidential treatment may cause competitive harm to CSWR in anticipated future acquisitions and operation of its systems in Kentucky.

7. 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 movant the opportunity to supply the Commission with a complete record and to address its specific questions to enable it to reach a decision with regard to this confidentiality request.

8. In compliance with 807 KAR 5:001, Sections 8(3) and 13(2)(3), Bluegrass Water is providing the confidential Excel format (.xlsx) files to the Commission only under seal and pursuant to the instructions regarding confidential filings in the 3/24/20 Order issued in Ky. PSC Case No. 2020-00085.

9. Bluegrass Water would not object to the disclosure of these confidential filings pursuant to a confidentiality agreement with any intervenor who can demonstrate a legitimate interest in reviewing the confidential information for the purpose of participating in this proceeding.<sup>1</sup>

10. 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 this Motion is a reasonable period of time for these documents to be treated as confidential in light of the competitive conditions in the water and wastewater industry.

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<sup>1</sup> Bluegrass Water has executed confidentiality agreements with the Attorney General and Joint Intervenors and will provide these confidential documents pursuant to the terms of those agreements.

WHEREFORE, Bluegrass Water respectfully requests that the Commission grant confidential treatment of the information described herein.

Respectfully submitted,

*/s/ Kathryn A. Eckert*

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Company, LLC*

CONFIDENTIAL WORKBOOKS

*(only filed under seal; not publicly filed)*

*PSC 4-6 CONFIDENTIAL.xlsx*

*Ops Cost Comparison-confidential.xlsx*

*INT ph DR 10-confidential.xlsx*

*INT ph DR 11-confidential.xlsx*