

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

Bluegrass Water’s Motion for Confidential Treatment of Information

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 second supplemental requests for information in this case. In support of this Motion, Bluegrass Water states as follows:

1. On this date, Bluegrass Water filed its Responses to Commission Staff’s Third Request for Information (“3 PSC ___”) and the Joint Intervenors’ Second Data Requests (“2 INT ___”).

2. From the 3 PSC responses, Bluegrass Water is seeking confidential treatment for documents attached as KY2020-00290_BW_0749 to KY2020-00290_BW_0752 responsive to 3 PSC 20 (the “Bids”) – specifically the dollar amounts contained in the bids therein. From the 2 INT responses, Bluegrass Water is seeking confidential treatment for the consolidated audited financials responsive to 2 INT 12.

3. 3 PSC 20 seeks information about the bids for providing various operating and maintenance services by operators other than Midwest Water for Bluegrass Water’s water and wastewater systems, which ultimately were not awarded the contract for services. For 2 INT 12, Bluegrass Water provided the audited consolidated financial statements attached as KY2020-00290_BW_0662 to KY2020-00290_BW_0684 (hereinafter “2020 Financials”) of its affiliate,

CSWR, LLC (“CSWR”). The Bids and 2020 Financials are being submitted to the Commission under seal.

4. The 2020 Financials are not publicly disseminated and public disclosure of this information would harm CSWR because the 2020 Financials reveal sensitive information regarding the internal financial ability and workings of CSWR, a non-party who is not a utility. The sensitive, commercially-valuable, and financial information contained therein is not publicly distributed or disseminated outside of CSWR.

5. 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 are permitted to view these documents. The redacted information in these documents for which confidential treatment is sought are treated as confidential by Bluegrass Water and its affiliates.

6. 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, as well as how it bids for operations and maintenance services (as shown by the dollar amounts in the Bids), 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.

7. 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 documents for which

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

8. 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.

9. In compliance with 807 KAR 5:001, Sections 8(3) and 13(2)(3), Bluegrass Water is filing with the Commission copies of these documents, entirely unredacted and with highlighting of the material for which confidential treatment is sought. The unredacted copies are filed under seal pursuant to the instructions regarding confidential filings in the 3/24/20 Order issued in Ky. PSC Case No. 2020-00085; redacted pages of the subject documents are being publicly filed as attachments to 2 INT 12 for the 2020 Financials and 3 PSC 20 for the Bids.

10. 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.¹

11. 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 fil-

¹ 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.

ing 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.

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

Respectfully submitted,

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