COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR PROJECTS AT THE DELAPLAIN SITE	**)**	**Case No. 2022-00104**

MOTION OF BLUEGRASS WATER UTILITY OPERATING COMPANY, LLC
FOR CONFIDENTIAL TREATMENT

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1. Bluegrass Water Utility Operating Company, LLC ("Bluegrass Water") pursuant to 807 KAR 5:001 Section 13 and KRS 61.878, hereby moves the Kentucky Public Service Commission (the "Commission") to grant confidential treatment to certain information (the "Confidential Information") contained in its Notice of Change in Cost of the Construction Project at the Delaplain Site ("Notice") submitted contemporaneously herewith. In support of this Motion, Bluegrass Water states as follows.

2. As discussed below, the Confidential Information is entitled to confidential treatment based upon KRS 61.878(1)(c)(1). *See* 807 KAR 5:001, Section 13(2)(a)(1).

3. Specifically, Bluegrass Water seeks to keep the following information confidential:

- **Bid Information:**
  - **CONFIDENTIAL Exhibit B – Bid Evaluation.**

I. KRS § 61.878 – Confidential or Proprietary Information.

4. KRS § 61.878(1)(c)(1) protects "records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary,

which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records."

5. The Confidential Information identified above for which Bluegrass Water seeks confidential treatment is not publicly disseminated and public disclosure of this information would harm Bluegrass Water, CSWR and its affiliates, and potentially the public.

A. Bid Evaluation.

6. Bluegrass Water seeks confidential treatment for CONFIDENTIAL Exhibit B, which contains competitively-sensitive bid information.

7. The Confidential Information includes confidential bid information pertaining to a certain Bluegrass Water Request for Proposal ("RFP") and responses received. Specifically, Bluegrass Water seeks to keep confidential the details of the non-selected bid for the Delaplain project. As the Commission has recognized, if even non-selected bids were publicly disclosed, contractors on future work could use the bids as a benchmark, which would likely lead to the submission of higher bids. *See In the Matter of: Application of the Union Light, Heat and Power Company for Confidential Treatment*, Order, PSC Case No. 2003-00054 (Aug. 4, 2003). This could result in competitive injury to Bluegrass Water.

8. Furthermore, as the Commission recently recognized, "non-selected bids are confidential to prevent vendors from using these bids to manipulate any future bidding." *In the Matter of: Electronic Application of Inter-County Energy Cooperative Corporation for a Certificate of Public Convenience and Necessity Authorizing the Installation of a New Advanced Metering Infrastructure (AMI) System*, Order, PSC Case No. 2022-00350 (Feb. 24, 2023).

9. Bluegrass Water is aware that consistent with prior Commission orders regarding the confidentiality of winning bids, the winning bid is to be publicly available.[1]

10. Because Bluegrass Water provides notice to the Commission of a change in the cost of construction pursuant to Paragraph 2 of the Commission's March 30, 2023 Order in this matter, Bluegrass Water respectfully requests that the bid information relating to the non-selected bid receive confidential treatment so as not to cause competitive harm to Bluegrass Water or the contractor.

11. Accordingly, the Commission should grant confidential treatment to the Confidential Information.

II. The Confidential Information.

12. The Confidential Information is not publicly available, is not disseminated within Bluegrass Water except to those employees and professionals with a legitimate business need to know and act upon the information, and is not disseminated to others without a legitimate need to know and act upon the information.

13. If the Commission grants the relief sought in this Motion, Bluegrass Water requests that the bid information from unselected bidders remain confidential for a period of five (5) years from the date of this Motion, at which time the Confidential Information should be sufficiently outdated so that it could not be used to competitively disadvantage Bluegrass Water. 807 KAR 5:001, Section 13(2)(a)(2).

[1] *See In the Matter of: Electronic Application of Inter-County Energy Cooperative Corporation for a Certificate of Public Convenience and Necessity Authorizing the Installation of a New Advanced Metering Infrastructure (AMI) System*, Order, PSC Case No. 2022-00350 (Feb. 24, 2023)("The Commission has previously held that winning bids are not granted confidential treatment because this amount is included in base rate calculations and shall be subject to public disclosure.").

14. Based on the foregoing, the Confidential Information is entitled to confidential protection. If the Commission disagrees, then the Commission should allow Bluegrass Water to request an evidentiary hearing to protect its due process rights and to supply the Commission with a complete record to enable it to reach a decision with regard to this filing. *See Util. Reg. Comm'n v. Ky. Water Serv. Co., Inc*., 642 S.W.2d 591 (Ky. App. 1982).

15. Pursuant to the Commission's March 24, 2020 Order *In the Matter of: Electronic Emergency Docket Related to the Novel Coronavirus COVID-19*, Case No. 2020-00085 ("Case No. 2020-00085"), one (1) copy of the confidential information highlighted in yellow is being filed with this motion by electronic mail. A copy of those pages, with the Confidential Information redacted, is being electronically filed with the Notice.

16. A copy of this motion with the Confidential Information redacted has been served on all parties to this proceeding through the use of electronic filing. *See* 807 KAR 5:001, Section 13(b). A copy of the Confidential Information has been served on all parties to this proceeding through electronic mail.

17. If and to the extent any of the Confidential Information becomes publicly available because it is no longer competitively sensitive, Bluegrass Water will inform the Commission in writing and have its confidential status removed. 807 KAR 5:001 Section 13(10)(b).

WHEREFORE, Bluegrass Water respectfully requests that the Commission classify and protect the Confidential Information as confidential for the period requested above.

This the 22nd day of October, 2025.

Respectfully submitted,

/s/ *Edward T. Depp*
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Certification

I hereby certify that a copy of this Motion has been served electronically on all parties of record through the use of the Commission's electronic filing system, and there are currently no parties that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, a paper copy of this filing has not been transmitted to the Commission.

/s/ *Edward T. Depp*

Counsel to Bluegrass Water Utility Operating Company, LLC