

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN KENTUCKY)
WATER DISTRICT FOR AN ADJUSTMENT OF RATES;) **CASE NO. 2022-00161**
ISSUANCE OF BONDS; FINANCING; AND TARIFF REVISIONS)

MOTION FOR CONFIDENTIALITY

Northern Kentucky Water District (“NKWD”), by and through counsel, moves the Commission for an order pursuant to 807 KAR 5:001, Section 13 and all other applicable law, for confidential treatment of Exhibit 37-1 provided in response to Commission Staff’s First Request for Information and contains salary and compensation studies completed by third party vendors.

KRS Chapter 61 requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from public disclosure of the information relevant to this matter are provided in KRS 61.878(1)(a) and KRS 61.878(1)(c)(1). Specifically, KRS 61.878(1)(a) exempts:

Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy

KRS 61.878(1)(c)(1) further exempts:

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;

The Commission has previously found that similar compensation studies used by NKWD merit confidential protection. See In the Matter of: Electronic Application of Northern Kentucky Water District for an Adjustment of Rates; Issuance of Bonds; Financing; and Tariff Revision, Case No. 2018-00291, (Order of March 13, 2019); see e.g., In the Matter of: Application of Cumberland Valley Electric,

Inc. for an Adjustment of Rates, Case No. 2014-00159, (Order of May 7, 2015); In the Matter of: Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates for Gas Service, Case No 2013-00167, (Order of October 29, 2013).

The information for which NKWD is seeking confidential treatment is generally recognized as confidential and proprietary information in the industry. If competitors were able to access the information in Exhibit 37-1 (collectively "studies"), competitors would have an unfair commercial advantage in hiring away current and future NKWD employees. These studies assist NKWD in developing and updating its compensation packages. Moreover, the studies contain position-specific information that would enable competitors to readily determine individual non-executive employee compensation. Competitors having access to this information would have a competitive advantage of knowing compensation levels and underlying information supporting those levels.

If the Commission disagrees with this request for confidential protection, NKWD requests that it hold an evidentiary hearing (a) to protect the NKWD's due process rights and (b) to supply the Commission with a complete record to enable it to reach a decision with regard to this matter. See Utility Regulatory Commission v. Kentucky Water Service Company, Inc., 642 S.W.2d 591, 592-94 (Ky App. 1982).

NKWD requests that the information be kept confidential for an indefinite period. The statutes cited above do not allow for disclosure at any time. Given the competitive employment market in Northern Kentucky and the efforts of non-regulated companies to hire trained, skilled employees, it is imperative that regulated information remain protected.

For these reasons, NKWD petitions the Commission to treat as confidential, indefinitely, the information referenced in the Application in its entirety.

RESPECTFULLY SUBMITTED:



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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that this document was submitted electronically to the Public Service Commission on August 3, 2022 and that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding.



Tom Edge, Esq. (KBA #95534)