

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-)	
AMERICAN WATER COMPANY’S ALLEGED)	
VIOLATION OF A TARIFF AND COMMISSION)	CASE NO. 2022-00299
REGULATIONS REGARDING METERS AND)	
MONITORING CUSTOMER USAGE)	

**KENTUCKY-AMERICAN WATER COMPANY’S
PETITION FOR CONFIDENTIAL PROTECTION**

Kentucky-American Water Company (“Kentucky American Water” or the “Company”) hereby petitions the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1) to grant confidential protection for portions of its response to Question No. 20 of the Attorney General’s First Request for Information (“AG 1-20”).

Confidential or Proprietary Commercial Information (KRS 61.878(1)(c)(1))

1. The Kentucky Open Records Act exempts from disclosure information “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.”¹ Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. The response to AG 1-20 contains as an attachment an internal presentation that analyzes certain controls for customer meters. The body of the response to AG 1-20 also contains charts that analyze data from different brands of meters. Kentucky American Water requests that the attachment be treated as confidential in its entirety and the charts contained in the response be treated confidentially.

¹ KRS 61.878(1)(c)(1).

3. The public disclosure of the presentation and charts provided in response to AG 1-20 would disadvantage Kentucky American Water and its customers. Confidential protection of the presentation and charts is necessary because disclosure would cause competitive harm in the marketplace for the purchase of meters and supporting controls. Public disclosure would place Kentucky American Water at a considerable disadvantage when negotiating future meter purchases. If the presentation and charts are disclosed, suppliers in the marketplace may be aware of points of emphasis and needs for Kentucky American Water. The supplier of meter brands that the charts view favorably could increase the price with the knowledge that Kentucky American Water may prefer certain meters and supporting controls. Disclosure may also cause competitive harm to meter brands and technologies Kentucky American Water views less favorably and injure Kentucky American Water's relationship with those suppliers.

4. Furthermore, public disclosure would provide insight into Kentucky American Water's evaluation of suppliers to the detriment of the Company and its customers. The public disclosure of this information would create precisely the kind of competitive harm KRS 61.878(1)(c)(1) intends to prevent.

The Confidential Information Subject to this Petition

5. The information for which Kentucky American Water is seeking confidential treatment pursuant to KRS 61.878 is not known outside of the utility or its individual potential contractors, is not disseminated within Kentucky American Water except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information within the utility industry.

6. Kentucky American Water will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors with a legitimate interest in this information and as required by the Commission.

7. If the Commission disagrees with this request for confidential protection, however, it must hold an evidentiary hearing (a) to protect Kentucky American Water'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.²

8. In compliance with 807 KAR 5:001, Section 13(2)(e), Kentucky American Water is filing with the Commission one copy of the response to AG 1-20 that identifies the information for which confidential protection is sought and one copy with the same information obscured. Pursuant to 807 KAR 5:001, Section 13(2)(a)(3)(b), confidential treatment is sought for the entirety of the attachment provided in response to AG 1-20. Written notification that the entire document is confidential has been submitted with the document in lieu of highlighting in accordance with 807 KAR 5:001, Section 13(2)(b).

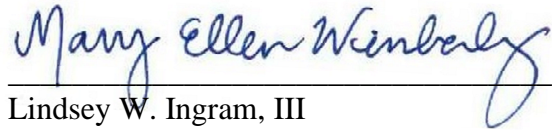
9. Kentucky American Water respectfully requests the Commission grant confidential protection for the information described herein for at least five years.

WHEREFORE, Kentucky-American Water Company respectfully requests the Kentucky Public Service Commission grant confidential protection for the information described herein.

² *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

Dated: February 10, 2023

Respectfully submitted,



Lindsey W. Ingram, III
Mary Ellen Wimberly
Stoll Keenon Ogden PLLC
300 West Vine Street
Suite 2100
Lexington, KY 40507
Telephone: (859) 231-3000
Facsimile: (859) 246-3672
l.ingram@skofirm.com
maryellen.wimberly@skofirm.com

*Counsel for Kentucky-American Water
Company*

CERTIFICATE OF COMPLIANCE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on February 10, 2023; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

A handwritten signature in blue ink that reads "Mary Ellen Wimberly". The signature is written in a cursive style and is positioned above a horizontal line.

Counsel for Kentucky-American Water Company