

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF:)
)
APPLICATION OF KENTUCKY-)
AMERICAN WATER COMPANY TO) **CASE NO. 2023-00030**
AMEND TARIFF TO REVISE QUALIFIED)
INFRASTRUCTURE PROGRAM CHARGE)

**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 Questions Nos. 2 and 4 of the Commission Staff’s First Request for Information (“PSC 1-2” and “PSC 1-4”).

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 attachment to the response to PSC 1-2 contains information collected and utilized by the American Water Supply Chain to assess expected pricing changes for Kentucky American Water. The collection and use of this information is confidential in that it shows how Kentucky American Water uses information to negotiate pricing with vendors in the relevant

¹ KRS 61.878(1)(c)(1).

marketplaces. The response to PSC 1-4 contains paving pricing information and executed paving contracts KAW has entered into with paving contractors. Thus, they contain negotiated contractual terms and pricing information. Kentucky American Water requests that the information responsive to PSC 1-2 and PSC 1-4 be treated as confidential in its entirety.

3. The public disclosure of the known and expected pricing changes, pricing information for paving, and paving contracts would disadvantage Kentucky American Water and its customers. Confidential protection is necessary because disclosure would cause competitive harm in the marketplace for services and goods Kentucky American Water purchases, including the negotiation and execution of paving contracts. Public disclosure would place Kentucky American Water at a considerable disadvantage when negotiating prices for goods and services, future paving contracts, and paving pricing. If the information were disclosed publicly, vendors and paving contractors in the marketplace may become aware of negotiation leverage they might have over Kentucky American Water. They may become aware of pricing and contractual terms that were the subject of negotiation.

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 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. At this time, there are no such intervenors.

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 PSC 1-4 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 attachments provided in response to PSC 1-2 and PSC 1-4(d). Written notification that the entire documents are confidential has been submitted with the document in lieu of highlighting in accordance with 807 KAR 5:001, Section 13(2)(b).

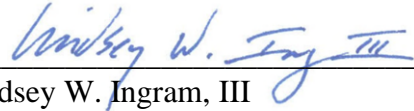
9. Kentucky American Water respectfully requests the Commission grant confidential protection for the information described herein for at least five years.

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: May 1, 2023

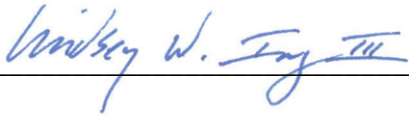
Respectfully submitted,



Lindsey W. Ingram, III
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
*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 May 1, 2023; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



Counsel for Kentucky-American Water Company