

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**Electronic Application of
Bluegrass Water Utility Operating
Company, LLC for a Certificate of
Public Convenience and Necessity for the
Installation of a Drain Field at the
Marshall Ridge System or an Order
Declaring the Installation is an Extension in
the Ordinary Course of Business**

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Case No. 2024-00170

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

Applicant Bluegrass Water Utility Operating Company, LLC (“Bluegrass Water” or the “Company”) respectfully submits this Motion pursuant to 807 KAR 5:001, Section 13 for confidential treatment of certain information provided in support of its Responses to the Commission Staff’s Requests for Information (the “Responses”) in this case. In support of this Motion, Bluegrass Water states as follows:

1. Bluegrass Water has contemporaneously filed its Responses to the Commission Staff’s Requests for Information in the above-referenced matter.
2. Bluegrass Water seeks confidential treatment for the Company’s detailed capital cost estimate for connecting the Marshall Ridge facility (the “Facility”) to the nearest Paducah McCracken County Joint Sewer Agency (“JSA”) sewer line. Connecting the Facility to the JSA was one of the alternatives to installing a drain field considered by the Company. These capital cost estimates s are being filed contemporaneously with this Motion as CONFIDENTIAL Exhibit DR 4(c) (“Capital Cost Estimate” or “Confidential Materials”).

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

I. KRS § 61.878(1)(c)(1) – Confidential or Proprietary Commercial 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. Pursuant to KRS § 278.020, a utility must demonstrate a need for the facilities it proposes to construct and an absence of wasteful duplication.¹ These requirements ensure that a utility avoids unreasonable or excessive investments by, among other things, confirming the applicant has performed a thorough review of available alternatives.² Bluegrass Water has included the Capital Cost Estimate contemporaneously with its Responses to support the Company’s conclusion that constructing a replacement drain field at the Facility was the most reasonable and least cost option to bring the Facility into compliance.

6. The Capital Cost Estimate is not publicly disseminated and public disclosure of the detailed components of this information would harm Bluegrass Water and its Manager, Central States Water Resources, Inc. (“CSWR”).

7. The Capital Cost Estimate contains Bluegrass Water’s internal assessment of the construction and material costs associated with connecting the Facility to JSA’s nearest sanitary sewer line. This assessment includes estimated costs for the various components of a sewer

¹ *Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 252 S.W.2d 885 (Ky. 1952).

² *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky*, Case No. 2005-00142 (Ky. PSC Sept. 8, 2005).

interconnection, and therefore provides insight into the Company's expected expenditures on similar sewer line connection projects. The Commission has recognized that such materials fall within the scope of exemption from disclosure pursuant to KRS 61.878(c), granting confidential treatment for such estimates in previous proceedings for Bluegrass Water and other utilities in order to "prevent potential construction bidders from using this information to manipulate bidding."³ If the component pricing information contained within the Capital Cost Estimate does not receive confidential treatment, Bluegrass Water will be at a competitive disadvantage when pursuing future projects because of the ability of contractors to potentially manipulate their pricing based on Bluegrass Water's past estimates for sewer line connection.

II. The Confidential Information.

8. If the Commission grants the relief sought through the Application, Bluegrass Water requests that the Confidential Information contained within Exhibit DR 4(c) 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 in any future bidding processes. 807 KAR 5:001, Section 13(2)(a)(2).

9. Based on the foregoing, the Confidential Information is entitled to confidential protection. If the Commission disagrees, then the Commission should allow the Company to request an evidentiary hearing to protect its due process rights and to supply the Commission with a complete

³ *Electronic Joint Application of Bluegrass Water Utility Operating Company, LLC for Approval of Acquisition and Transfer of Ownership and Control of Assets of Magruder Village Water Company*, Case No. 2023-00218, Order, 4 (Ky. PSC Oct. 10, 2023) (granting requested five-year confidentiality period to construction cost estimates) (citing *Electronic Purchased Gas Adjustment Filing of Louisville Gas and Electric Company*, Case No. 2020-00309, Order, 3 (Ky. PSC Aug. 20, 2021)). See also *Electronic Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Site Compatibility Certificates and Approval of a Demand Side Management Plan and Approval of Fossil Fuel-Fired Generating Unit Retirements* Case No. 2022-00402, Order (Ky. PSC Aug. 31, 2023). *Electronic Application of Big Rivers Electric Corporation for a Convenience and Necessity Authorizing Construction of a New Headquarters Facility and an Order Authorizing Big Rivers to Sell its Existing Headquarters Facility* Case No. 2021-00314, Order (Ky. PSC Sep. 27, 2022). *Electronic Application of Jackson Purchase Energy Corporation for a Certificate of Public Convenience and Necessity to Construct a New Headquarters Facility* Case No. 2019-00326, Order (Ky. PSC Oct. 1, 2019).

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).

10. Pursuant to 807 KAR 5:001 Sections 8(3) and 13(2)(e) as well as 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, 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 Responses.

11. 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.

12. 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 5th day of September, 2024.

Respectfully submitted,

/s/ Edward T. Depp
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Certification

I hereby certify that a copy of this filing 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
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