COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-AMERICAN WATER COMPANY FOR AN ADJUSTMENT OF RATES	**)** **)** **)** **)**	**CASE NO. 2025-00122**

KENTUCKY-AMERICAN WATER COMPANY, INC.'S MOTION FOR RECONSIDERATION OF OCTOBER 9, 2026 ORDER REGARDING CONFIDENTIALITY

Pursuant to KRS 278.400, Kentucky-American Water Company, Inc. ("KAWC") hereby moves the Kentucky Public Service Commission ("Commission") for reconsideration of its October 9, 2026 Order regarding confidential treatment.

PRESENT CHEMICAL PRICING

In its October 9, 2026 Order, the Commission denied confidential treatment for present chemical prices KAWC produced in response to PSC 1-1. The Commission stated that information is a "matter of public concern" and that transparency is necessary" for utility ratepayers to know the information relied upon in the Commission's final decision. But the Commission's Order on this point fails to address the arguments KAWC made in its June 5, 2025 Petition for Confidential Treatment that public disclosure of chemical prices KAWC paid and expects to pay will impede KAWC's ability to negotiate with potential chemical providers for more favorable pricing terms. This would harm KAWC and its customers, and put KAWC at a commercial disadvantage, which is the core principle of the exemption from disclosure under the Open Records Act, KRS 61.878(1)(c)1.

Moreover, the Commission's Order also fails to acknowledge that this exact issue arose in KAWC's 2023 rate case (Case No. 2023-00191). In that case, the Commission initially denied confidential treatment for present chemical pricing, but, in response to KAWC's Motion for Reconsideration in that case, found that present chemical pricing is confidential.[1] In denying the present request for confidential treatment, the Commission has not identified any change in fact or law that would support a different conclusion in this case.

KAWC makes the same arguments here that led the Commission to reverse itself in its November 17, 2023 decision in that 2023 rate case. First, KAWC's present chemical pricing reflects negotiated rates that American Water (American Water is KAWC's parent company) has reached with chemical suppliers. KAWC leverages its parent company's national reach and volume purchases to secure lower prices for customers. If this information is disclosed, chemical suppliers may be less willing to present low bids to American Water as it may damage their relationship with their other customers if those other customers learn about favorable pricing to American Water. If suppliers are not willing to present the lowest bids possible to American Water, all American Water customers, including customers of KAWC, will be negatively impacted by paying higher prices. Thus, the Commission's decision will have a direct and negative impact on customers.

Second, KAWC respectfully disagrees that disclosure of the present chemical pricing information will undermine the transparency necessary for the Company's customers to know the information relied upon in the Commission's decision. The Attorney General, who by statute represents and advocates for customer interests, has had access to the confidential information at all times throughout the case after signing a confidentiality agreement. The other intervenors in

[1] November 17, 2023 Order at page 4.

the case have also had access to the confidential information after signing a confidentiality agreement. Those parties, along with Commission Staff and the Commission, have unfettered access to the confidential information. Furthermore, to balance the prevention of prejudicial commercial harm and the Commission's goal of transparently addressing the pricing, KAWC requested that the confidential pricing information remain confidential only for five years.

Third, as further evidence of the sensitive nature of the pricing information in the chemical supply contracts, the chemical contracts provide that the pricing information is confidential. The contracts further provide that in the event a summons, regulatory order, court order, or other demand causes the disclosure of confidential information, the parties must notify one another and provide an opportunity for the party to lawfully object and defend any rights it may have to the information. These provisions exist precisely because chemical suppliers want to protect favorable pricing provided to American Water. An example of a chemical supplier's position on this issue was attached to KAWC's October 30, 2023 Motion for Reconsideration in Case No. 2023-00191.[2]

In addition to the fact that the Commission previously found current chemical pricing to be confidential, the Commission's October 9, 2026 Order is a departure from case law and Attorney General decisions interpreting KRS 61.878(1)(c)1. In 19-ORD-133,[3] the Attorney General stated:

> In *Hoy v. Kentucky Indus. Revitalization Authority,* 907 S.W.2d 766, 768 (Ky. 1995), the Supreme Court of Kentucky considered the applicability of KRS 61.878(1)(c)2[4] to required disclosures of "a financial history of [a] corporation, projected cost of the project, the specific amount and timing of capital investment, copies of financial statements and a detailed description of the company's productivity,

[2] See Exhibit A to KAWC's October 30, 2023 Motion for Reconsideration.
[3] 19-ORD-133 may be accessed at: https://www.ag.ky.gov/_layouts/download.aspx?SourceUrl=https://www.ag.ky.gov/Resources/orom/2019/19ORD133.doc
[4] KRS 61.878(1)(c)2. contains the identical language, "generally recognized as confidential or proprietary," that appears in KRS 61.878(1)(c)1.

> efficiency and financial stability." The Court concluded: "It does not take a degree in finance to recognize that such information concerning the inner workings of a corporation is 'generally recognized as confidential or proprietary'." *Id.*

In 19-ORD-133, at page 5, the Attorney General also outlined its past decisions, stating:

> The decisions of this office have likewise 'recognized that records relating to private financial affairs can be exempted' under KRS 61.878(1)(c). 01-ORD-143. Materials we have specifically found to be subject to the exemption have included 'trade secrets, investment strategies, economic status, or business structures,' 17-ORD-198 (*see also* 16-ORD-273), as well as 'the method for determining [a] contract price" and "business risks assumed.' 17-ORD-002.

Continuing at page 5, the Attorney General also stated "the existence of a highly competitive market is often a relevant factor in favor of nondisclosure under KRS 61.878(1)(c). 17-ORD-002; 12-ORD-076; 09-ORD-031; 08-ORD-083." Here, the chemical pricing from KAWC's parent company is the result of a highly competitive market, the disclosure of which would subject KAWC and its parent, American Water, to a significant commercial disadvantage.

Again, the Commission reversed itself on this issue in Case No. 2023-0019 and should do the same here. Also, for the reasons set for the above, KAWC also seeks reconsideration of its denial of KAWC's October 6, 2025 Petition for Confidential Treatment regarding present chemical prices provided in response to PSC 1-6.[5]

COMPARISON OF MEDICAL BENEFITS, EMPLOYEE CONTRIBUTION RATES, AND EMPLOYEE BENEFIT PLANS ANNUAL PREMIUMS

The Commission's October 9, 2026 Order denied confidential treatment for information provided in response to PSC 1-29 (comparison of medical benefits), PSC 1-38 (employee contribution rates, and PSC 1-39 (employee health care, dental, and vision plans). KAWC argued that disclosure of those plans would work a competitive disadvantage to KAWC because those

[5] See page 17 of the Commission's October 9, 2026 Order.

plans are the product of extensive time and investment and making them accessible to competitors would allow competitors to have free use of those documents and would allow competitors an unfair advantage in attempting to hire a KAWC employee. The basis for the Commission's holding was only that "aggregate"[6] employee compensation is not confidential. KAWC agrees with that concept in general; the total amount of compensation paid to all of KAWC employees in the aggregate is not confidential.

However, for the documents at issue, they do show *precisely* what an individual is provided in the way of benefit. For example, the document responsive to PSC 1-29 shows exactly what an employee must pay for his/her contribution to his/her medical plans both in percentages[7] and in dollars. If a competitor has this information, it could easily approach a KAWC employee and offer a benefits package and contribution rates more favorable to that employee. This would put KAWC at a distinct disadvantage in trying to retain that employee, which would ultimately be unfavorable to customers. Thus, this information may be true for *all* employees who participate in those medical plans, but it is also *specific* to each individual employee rather than being in the "aggregate."

Additionally, because American Water self-insures its employee benefit plans, the costs associated with those plans reflect underlying claims expense, actuarial calculations and assumptions, and negotiated third-party administrative or vendor costs. This information has conclusively been determined to be confidential and exempt from disclosure under the Open Records Act by the Attorney General. In 26-ORD-196,[8] the Attorney General stated:

> Types of information found by the Office to be generally recognized as confidential or proprietary include "private financial affairs" (01-

[6] October 9, 2026 Order at 7.
[7] The response to PSC 1-38 has the same percentage amount and the documents responsive to PSC 1-39 also have detailed contribution amounts and total premium amounts shown in dollars.
[8] 26-ORD-196 is available at this link: https://www.ag.ky.gov/Resources/orom/2026/26-ORD-196.pdf

> ORD-143); "trade secrets, investment strategies, economic status, or business structures" (17-ORD-198; 16-ORD-273; 07-ORD-166); "the method for determining [a] contract price" and "business risks assumed" (17-ORD-002); "costing and pricing strategy" (92-ORD-1134; OAG 89-44); and "corporate assets of a non-financial nature that have required the expenditure of time and money to develop and *concern the inner workings of the private entity*" (10-ORD-001 (emphasis in original)). The common factor among all these types of information is the insight they provide into the internal operations of the entity making the disclosure to the public agency.

The requested health benefit comparison information covers every aspect of the aforementioned AG opinion. If those amounts are known publicly, it would put American Water at a disadvantage in future negotiations and enable counterparties or competitors to obtain information about American Water's benefits offerings and cost structures and reveal proprietary information that would not otherwise be available to the public.

Further, KAWC submits that the comparison of its benefits information found in its response to PSC 1-29 is also confidential because it shows benchmarking data and analysis developed by an independent vendor, which may not be publicly available and subject to contractual restrictions on its disclosure. Public disclosure could reveal commercially sensitive information regarding the Company's benefits and the vendor's benchmarking methodology, which would provide an unfair commercial advantage to competitors. Therefore, KAWC requests that the Commission reconsider and evaluate the information based on its commercially sensitive and proprietary nature, rather than its applicability to individual employees.

OTHER INFORMATION DEEMED NON-CONFIDENTIAL

Ordering Paragraph 13 of Commission's October 9, 2026 Order requires KAWC to file publicly the information denied confidential treatment within 30 days of that Order. KAWC will do so with the exception of the information that is the subject of this motion.

Dated: November 1, 2026

Respectfully submitted,

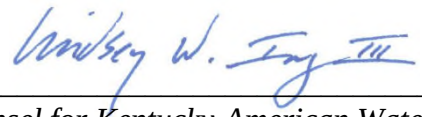
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CERTIFICATE OF COMPLIANCE

In accordance with 807 KAR 5:001, Section 8 as modified by 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 November 1, 2026; 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