

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

In the Matter of:)
)
 Electronic Application of Bluegrass)
 Water Utility Operating Company, LLC)
 For an Adjustment of Water and)
 Sewage Rates) **Case No. 2025-00354**
)

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

1. Bluegrass Water Utility Operating Company, LLC (“Bluegrass Water”) pursuant to 807 KAR 5:001 Section 13 and KRS 61.878, hereby moves the Kentucky Public Service Commission (the “Commission”) to grant confidential treatment to certain information (the “Confidential Information”) contained in its Responses to the Commission Staff’s second requests for information (“Commission Responses”), the Attorney General’s first requests for information (“OAG Responses”), and Scott County’s first requests for information and submitted contemporaneously herewith. In support of this Motion, Bluegrass Water states as follows.

2. As discussed below, the Confidential Information is entitled to confidential treatment based upon KRS 61.878(1)(c)(1), 61.878(1)(a), and/or 61.878(1)(m)(1). *See* 807 KAR 5:001, Section 13(2)(a)(1).

3. Specifically, Bluegrass Water seeks to keep the following information confidential:
- a. Exhibit SC 1-9 (“*Engineering Memo*”);
 - b. Exhibit PSC 2-29 (“*Customer Information*”);
 - c. Response to OAG 1-68; (“*Payments to Contractors*”).

I. KRS § 61.878 – Confidential or Proprietary 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. KRS § 61.878(1)(a) protects “records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”

6. KRS § 61.878(1)(m)(1) protects “records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to ... (f) [i]nfrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems ... [including but not limited to] information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems[.]”

7. The Confidential Information identified above for which Bluegrass Water seeks confidential treatment is not publicly disseminated and public disclosure of this information would harm Bluegrass Water, CSWR and its affiliates, and potentially the public.

A. The Engineering Memo

8. First, Bluegrass Water seeks confidential treatment for the Engineering Memo filed in Exhibit SC 1-9. This Engineering Memo has been redacted in the publicly-filed Responses and replaced with a page identifying the attachment as confidential as it is confidential in its entirety. The complete Engineering Memo has been highlighted in the unredacted copies filed under seal. The

Engineering Memo contains confidential and proprietary information regarding Bluegrass Water's systems and the assets.¹

9. The Confidential Information in the Engineering Memo contained in the exhibits identified above for which confidential treatment is sought is not publicly disseminated, and public disclosure of this information would harm Bluegrass Water. The Engineering Memo informs the internal processes developed through experience and used by Bluegrass Water and its affiliates and its affiliates to renovate wastewater systems.² Such processes are "trade secrets" as defined by KRS 365.880(4) and fall within the scope of the exemption from disclosure pursuant to KRS 61.878(c). If these trade secrets contained within the Engineering Reports do not receive confidential treatment during the pendency of this proceeding, the risk would be unnecessarily increased that Bluegrass Water and its affiliates would suffer a serious business injury and these trade secrets would be misappropriated by other competitors in the wastewater industry.

10. In addition, the Engineering Memo is proprietary, as the Company commissioned this memo from a third-party engineering firm as part of its investigation into the necessary repairs to bring the Delaplain wastewater system into regulatory compliance. If disclosed, this information would benefit Bluegrass Water's competitors or other potential purchasers of the Delaplain system and provide them a detailed view of the system's capacity and recommended repairs. Disclosure of this information would competitively harm Bluegrass Water as it would give other purchasers and competitors a competitive advantage, while lessening competition in the bidding process. As such, Exhibit SC 1-9 should be afforded confidential treatment for five years.

¹ The Commission has previously granted confidential treatment to the same and similar information in Case No. 2020-00028, *Proposed Acquisition by Bluegrass Water of Wastewater System Facilities* (Ky. PSC Apr. 16, 2020), Order at 3; Case No. 2021-00265, *Proposed Acquisition of Wastewater System Facilities by Bluegrass Water Utility Operating Company, LLC* (Ky. PSC Apr. 26, 2022), Order at 3.

² *See id.*

11. In addition, the Engineering Memo contains diagrams and schematics of critical infrastructure of the Delaplain system. *See* KRS 68.878(1)(m). The Commission has previously granted confidential treatment to similar “maps, diagrams, and schematics for infrastructure.” *See* Case Nos. 2020-00349; 2020-00350, Dec. 7, 2021 Order (granting the Jan. 22, 2021 Motion for Confidential treatment). In such cases, confidential treatment should be afforded indefinitely. *See id.* at 14 (Ordering Para. 10).

12. Accordingly, Bluegrass Water seeks confidential treatment for Exhibit SC 1-9 indefinitely or, in the alternative, for a period of five years.³

B. Customer Information

13. Second, Bluegrass Water seeks confidential treatment of Exhibit PSC 2-29 which contains information related to individual customers, including names, addresses, and other customer account balance information. Disclosing the details of Exhibit PSC 2-29 would constitute an unwarranted invasion of personal privacy on behalf of Bluegrass Water’s customers.

14. The Commission has previously granted confidential treatment of such information pursuant to KRS 61.878(1) for an indefinite period of time. *See In the Matter of: Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Order, P.S.C. Case No. 2012-00221 (July 25, 2013) (holding customer names, account numbers, and usage information exempt from disclosure under KRS 61.878(1)(a)).

15. Accordingly, Bluegrass Water respectfully requests that the Commission grant confidential treatment to Exhibit PSC 2-29 for an indefinite period of time.

³ *Proposed Acquisition by Bluegrass Water of Wastewater System Facilities*, Case No. 2021-00265 (Ky. PSC Apr. 16, 2020), Order at 3

C. Payments to Contractors

16. Bluegrass Water seeks to keep confidential Response to OAG 1-68 to the extent they contain confidential pricing provisions of its contracts with third-party service providers.

17. As outlined in the Direct Testimony of Todd Thomas (Application Exhibit 20), the third-party service contracts are the result of a competitive bidding process. Further, for similar service contracts Bluegrass Water will engage in an RFP process to award future contracts. Accordingly, public disclosure of the current pricing could lead to higher bids in future public bidding procedures.

18. These effects were recognized in PSC Case No. 2003-00054, in which the Commission granted confidential treatment to bids submitted to Union Light, Heat & Power (“ULH&P”). ULH&P argued, and the Commission implicitly accepted, that if the bids it received were publicly disclosed, contractors on future work could use the bids as a benchmark, which would likely lead to the submission of higher bids.⁴

19. Accordingly, Bluegrass Water respectfully requests that the Commission grant its Motion to keep as confidential for a period of five (5) years the Payments to Contractors.

II. The Confidential Information.

20. The Confidential Information is not publicly available, is not disseminated within Bluegrass Water except to those employees and professionals with a legitimate business need to know and act upon the information, and are not disseminated to others without a legitimate need to know and act upon the information.

21. If the Commission grants the relief sought in this Motion, Bluegrass Water requests that the Engineering Memo and Payments to Contractors identified above remain confidential for a

⁴ *In the Matter of: Application of the Union Light, Heat and Power Company for Confidential Treatment*, Order, PSC Case No. 2003-00054 (August 4, 2003).

period of at least 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.⁵ 807 KAR 5:001, Section 13(2)(a)(2).

22. If the Commission grants the relief sought in this Motion, Bluegrass Water requests that the Customer Information remain confidential indefinitely, as it reveals sensitive information, the disclosure of which would constitute an unwarranted invasion of personal privacy. 807 KAR 5:001, Section 13(2)(a)(2).

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

24. Pursuant to 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 ("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 OAG Responses.

25. 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.

⁵ As noted in Section I.A, above, Bluegrass Water request that the Engineering Memo receive confidential treatment indefinitely on the theory that it depicts critical infrastructure.

26. 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(s) requested above.

This the 2nd day of March, 2026.

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 _____
*Counsel to Bluegrass Water Utility
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