COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY-AMERICAN WATER COMPANY FOR AN ADJUSTMENT OF RATES, APPROVAL OF SYSTEM IMPROVEMENT PROGRAM, AND TARIFF CHANGES	))))))	**CASE NO. 2026-00094**

PETITION OF KENTUCKY-AMERICAN WATER COMPANY, INC.
FOR CONFIDENTIAL PROTECTION

Kentucky-American Water Company, Inc. ("KAWC" or "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 certain information the Company is providing in response to (1) Commission Staff's Second Request for Information ("PSC") Item No. 70; (2) the Attorney General's ("AG") First Request for Information Nos. 1, 2, 5, 15, 41, 63, 107, 111, 122, 126, 128, 133, 141, 172, 186, and 189; and (3) Lexington-Fayette Urban County Government's Request for Information Item Nos. 2 and 23. In support of its Petition, KAWC states the following:

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

1. The Kentucky Open Records Act exempts from disclosure certain records 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.

[1] KRS 61.878(1)(c)(1).

Proprietary Internal Documents

2. In response to AG 1-1(c), KAWC is providing the American Water Works Service Company Cost Accounting Manual (the "Manual"). The Manual contains proprietary confidential commercial information and is the product of significant investment. If publicly disclosed, the Manual would grant KAWC's competitors access to sensitive internal operational information, as well as free access to accounting processes that American Water Works Company, Inc. expended substantial resources to develop. The Commission has previously granted confidential treatment to utilities' internal budgeting and accounting practices and guidelines.[2]

3. Relatedly, KAWC's response to LFUCG 1-23 includes attachments containing the hydrant inspection form and hydrant inspection practice that are the product of extensive time and money invested by KAWC's parent company, American Water Works Company, Inc. ("American Water"). The attachments contain confidential and proprietary information, the disclosure of which would unfairly advantage American Water and KAWC's competitors. If those competitors have free access to the same information that American Water expended substantial resources to develop, they will derive an unfair commercial advantage. The Commission has previously found that KAWC's fire hydrant maintenance procedures should be afforded confidential treatment.[3] Because of the proprietary nature of the information at issue, KAWC's requests confidential protection for the entirety of Attachments 1 and 2 provided in response to LFUCG 1-23.

Proprietary Third-Party Reports

4. In response to AG-189, KAW is providing reports and analysis from S&P and Moody's, some of which are confidential in their entirety: Attachments 29, 30, 32, 33, 38, and 44.

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[2] *See, e.g. Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, Case No. 2023-00191, Order at 5 (Ky. PSC Oct. 10, 2023).
[3] *Electronic Application of Kentucky-American for an Adjustment of Rates*, Order at 3-4 (Ky. PSC Mar. 14, 2019).

Per The Brattle Group's license agreement with S&P and Moody's, these documents cannot be disclosed publicly. These documents contain S&P and Moody's reports and evaluations of the regulated utilities sector, as well as information about proprietary ratings methodologies. S&P and Moody's only makes these documents available to paying subscribers under licensing agreements. As players in competitive markets, S&P and Moody's would experience commercial harm if their proprietary analyses and information were publicly disclosed. Additionally, public disclosure would likely cause commercial harm to KAWC and its consultants. If this proprietary information is publicly disclosed, S&P, Moody's, and other third-party suppliers of the similar information and analyses may be less willing to supply reports to KAWC's and its consultants in the future. Diminishing the Company's ability to receive this information would harm both KAWC and its customers. The Commission has previously held that reports from subscription-based rating services such as Moody's and S&P should be granted confidential treatment.[4]

5. In addition to the documents being produced by the Brattle Group, KAWC is also producing all major bond rating agency reports since 2022 as an attachment to AG 1-186. These reports contain sensitive credit rating information and details about KAWC's operations. If these reports are publicly disclosed, competitors would be able to access KAWC's operational information, which is likely to disadvantage the Company. The Commission has previously granted confidential treatment to similar reports.[5]

6. In response to AG 1-15, KAWC is providing as attachments the results of customer satisfaction surveys that include KAWC or American Water. These surveys contain proprietary

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[4] *See, e.g. Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, Case No. 2023-00191, Order at 6 (Ky. PSC Dec. 11, 2023).

[5] *See, e.g. Electronic Application of Duke Energy Kentucky, Inc., for: 1) An Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 5) All other Required Approvals and Relief*, Case No. 2017-00321, Order at 4, 8-9 (Ky. PSC June 25, 2026).

third-party information developed which allow the Company to gain insights into customer experiences and satisfaction. If publicly disclosed, the third-parties who develop this proprietary information may be unwilling to provide such information in the future. Without the ability to obtain this information from third-parties, KAWC would have to invest time and resources into developing this information internally, which would place the Company at a commercial disadvantage.

Employee Compensation Strategies

7. KAWC is also providing confidential and proprietary information regarding American Water's strategies for employee compensation. In response to AG 1-41, KAWC is providing attachments that reveal the cost to employees of health care, dental, and vision plans, along with the employee contribution rate for annual premiums. Similarly, the Company is providing copies of its incentive compensation plan information in response to AG 1-107, along with specific performance metrics and payouts under its plans in response to AG 1-111. Also, KAWC is providing the expected wages and benefits for vacant positions in response to AG 1-5. These documents contain information that is confidential and proprietary, the disclosure of which would unfairly disadvantage American Water and KAWC relative to their competitors. If those competitors have free access to the same information that American Water expended substantial resources to develop, they will derive an unfair commercial advantage. Furthermore, access to this information would also provide competitors with information that could be used to recruit and hire KAWC and American Water employees.

8. Although the Commission previously denied confidential protection for certain benefit information,[6] KAWC respectfully asks the Commission to reconsider. Recruiting and retaining employees is critical to KAWC's long-term success.[7] KAWC's employee benefits, as compared to the utility industry average, are an important tool for recruiting and retaining employees. Public disclosure would allow competitors to leverage this information to recruit existing and prospective KAWC employees, which would result in commercial harms to the Company.

Confidential Contractor and Vendor Pricing Information

9. In response to AG 1-128, 1-133, and 1-172, KAWC is providing documentation of the Company's costs, including contracts and quotes from the Company's vendors. If the pricing and terms are publicly disclosed, this may impede KAWC's ability to negotiate with potential suppliers for more favorable pricing terms if potential suppliers are aware of the amount KAWC paid or expects to pay. This would harm both KAWC and its customers and provide an unfair commercial advantage to those suppliers. While the Company is requesting that the contracts and quotes be afforded confidential protection, the forecast expenses that were derived from these business documents have been publicly disclosed, which allows ratepayers to know the facts the Commission considers in reaching its decisions. The Commission has previously granted confidential treatment to similar third-party contract information.[8]

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[6] *See, e.g. Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions,* Case No. 2023-00191, Order at 4 (Ky. PSC Oct. 10, 2023).

[7] *See* Kendra Pierre-Louis, *America's Next Water Crisis? A Lack of Experienced Workers,* Bloomberg (Dec. 27, 2024); *Water Infrastructure Sector Workforce*, ENVIRONMENTAL PROTECTION AGENCY, https://www.epa.gov/sustainable-water-infrastructure/water-infrastructure-sector-workforce, (last visited June 25, 2026); American Water Works Association, 2026 STATE OF THE WATER INDUSTRY: EXECUTIVE SUMMARY 11 (2026) (Showing that recruitment and retention remain a major industry concern).

[8] *See e.g. Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions,* Case No. 2023-00191, Order at 2 (Ky. PSC June 24, 2026); *Electronic*

10. Relatedly, in response to AG 1-122, KAWC is producing documentation of its insurance policies and insurance costs. If publicly disclosed, this policy information would provide insurance providers with valuable insights into the Company's existing insurance policies and the basis for its current and projected insurance costs. This information would allow prospective insurers to gain an advantage in future negotiations over insurance costs. Additionally, public disclosure of this policy documentation would provide competitors with insights into KAWC's operations and operational risks, which would put the Company at a commercial disadvantage.

11. For these reasons, KAWC respectfully requests confidential treatment for its attachments to AG 1-1, AG 1-5, AG 1-15, AG 1-41, AG 1-107, AG 1-111, AG 1-122, AG 1-128, AG 1-133, AG 1-172, AG 1-186, AG 1-189, and LFUCG 1-23.

Confidential Personal Information (KRS 61.878(1)(a))

12. The Kentucky Open Records Act exempts from disclosure certain private and personal information.[9]

Confidential Compensation Information

13. Individual compensation and salary information is generally recognized as private and personal information subject to KRS 61.878(1)(a). The Kentucky Court of Appeals has stated that "information such as . . . wage rate . . . [is] generally accepted by society as [a] detail in which an individual has at least some expectation of privacy."[10] Additionally, the Kentucky Supreme Court has characterized "one's income" as "intimate" information of a private nature.[11]

Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Rates and Approval of Construction, Case No. 2020-00290, Order at 20-22 (Dec. 27, 2021) (granting confidential treatment to contract information and pricing for operations software).

[9] KRS 61.878(1)(a).

[10] *Zink v. Department of Workers' Claims, Labor Cabinet*, 902 S.W.2d 825, 828 (Ky. App. 1994).

[11] *Cape Pub'ns, Inc. v. Univ. of Louisville Found., Inc.*, 260 S.W.3d 818, 822 (Ky. 2008).

14. In response to Item Nos. PSC 2-70, AG 1-2, AG 1-63, AG 1-126 and AG 1-141, the Company is providing current and projected wage information for employees. KAWC requests confidential protection for all non-officer compensation information.

15. Disclosure of this information would invade the privacy rights of the individuals named and provide insight into the Company's salary determinations. This personal and private information is not in the public realm. The Company's employees have a reasonable expectation that their compensation is personal and private information. Disclosure would constitute an unwarranted invasion of their personal privacy in contravention of KRS 61.878(1)(a).

16. Disclosure of the compensation information of the Company's employees –private citizens who are not government officers or employees – would not further the Act's purpose, which is to make government and its actions open to public scrutiny. Discussing the rationale for the Act, the Kentucky Court of Appeals has stated:

> [T]he public's "right to know" under the Open Records Act is premised upon the public's right to expect ***its agencies*** properly to execute ***their statutory functions***. In general, inspection of records may reveal whether ***the public servants*** are indeed serving the public, and the policy of disclosure provides impetus for ***an agency*** steadfastly to pursue the public good. At its most basic level, the purpose of disclosure focuses on the citizens' right to be informed as to ***what their government is doing***.[12]

Relying upon this precedent, the Kentucky Office of the Attorney General ("AG") has opined that "[i]f disclosure of the requested record would not advance the underlying purpose of the Open Records Act, namely <u>exposing agency action to public scrutiny</u>, then countervailing interests, such as privacy, must prevail."[13]

[12] 902 S.W.2d at 828-29 (Ky. App. 1994) (bold italics added).
[13] *James L. Thomerson/Fayette County Schools*, KY OAG 96-ORD-232 (Nov. 1, 1996) (citing *Zink v. Department of Workers' Claims, Labor Cabinet*, 902 S.W.2d 825 (Ky. App. 1994)) (emphasis added).

17. The Commission has recognized a right to utility employee privacy. In an order approving a petition for confidential treatment in Case No. 89-374, the Commission found that salary information "should be available for customers to determine whether those salaries are reasonable," but "the right of each individual employee within a job classification to protect such information as private outweighs the public interest in the information."[14] In the same order, the Commission concluded, "Thus, the salary paid to each individual within a classification is entitled to protection from public disclosure."[15]

18. The Commission also has previously denied confidential protection to executive officer information and held that because executive officer "salaries are included as an expense in base rate calculations" and are "subject to public dissemination of regulatory filings," the information should not be entitled to confidential protection.[16] Such reasoning, however, is not applicable in the current request because the Company is not requesting confidential protection for executive salaries. For non-executive compensation, the Commission has previously found that such information should be afforded confidential treatment, and that disclosure would violate employees' expectations of privacy.[17]

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[14] *Application of Louisville Gas and Electric Company for an Order Approving an Agreement and Plan of Exchange and to Carry Out Certain Transactions in Connection Therewith*, Case No. 89-374, Order at 2 (Ky. PSC Apr. 30, 1997).

[15] *Id.*

[16] *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-00222, Order at 2 (Ky. PSC Sept. 11, 2013). *See also Application of Kentucky-American Water Company for an Adjustment of Rates*, Case No. 2015-00418, Order at 2 (Ky. PSC Aug. 31, 2016) (finding "that KAWC's executive salaries are an expense in the rate base calculations" and holding that "such salary compensation is not entitled to confidential protection"); *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order at 1-2 (Ky. PSC Jan. 20, 2016) (denying confidential protection for executive salary information for the same reasons as Case No. 2012-00222 and noting that "[m]ovant has not offered any argument to depart from this precedent"); *An Adjustment of Gas and Electric Rates of Louisville Gas and Electric Company*, Case No. 90-158, Order at 3 (Ky. PSC Sept. 7, 1990) ("Since LG&E seeks to recover through its rate structure the compensation in salaries paid to its executive employees, LG&E customers have a right to know whether the salaries and compensation paid to such employees are reasonable."). *See also* Case No. 2018-00294, Order (Ky. PSC Oct. 8, 2019); Case No. 2018-00295, Order (Ky. PSC Oct. 8, 2019).

[17] *See, e.g., Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, a Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions*, Case No. 2023-00191, Order at 2 (Ky. PSC June 24, 2026) (Finding

Confidential Customer Information

19. The Commission has recognized that customer billing information, including names, account numbers, and billing data, is confidential personal information not subject to public disclosure.[18]

20. In response to LFUCG Request No. 1-2, KAWC is providing identifying customer account information, including account numbers, locations, and billing information. Because such information is private and personal information that the Commission has granted confidential treatment under KRS 61.878(1)(a) in the past, the KAWC is requesting confidential treatment for the account information being produced in response to LFUCG 1-2.

Insurance Policy Account Information

21. In response to AG 1-122, KAWC is providing documentation of its insurance costs, which includes KAWC's insurance policy information. The Commission has found that a company's insurance policy details constitute confidential personal information subject to confidential treatment under KRS 61.878(1)(a).[19] Therefore, the KAWC is requesting confidential treatment for the policy documentation being produced in response to AG 1-122.

22. For these reasons, KAWC respectfully requests confidential treatment for the attachments being produced in response to PSC 2-70, AG 1-2, AG 1-63, AG 1-122, AG 1-126, AG 1-141 and LFUCG 1-2.

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that Kentucky-American's labor records should be subject to confidential protection for an indefinite period under KRS 61.878(1)(a)).

[18] *See, e.g. Application of Duke Energy Kentucky, Inc. for: (1) An Adjustment of the Electric Rates; (2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; (3) Approval of New Tariffs; (4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and (5) All Other Required Approvals and Relief,* Case No. 2017-00321, Order at 3, 8 (Ky. PSC May 3, 2018) (granting confidential protection to specific customer account information, including account numbers and billing data).

[19] *Electronic Application of Citipower, LLC for (1) an Adjustment of Rates Pursuant to 807 KAR 5:076; (2) Approval for a Certificate of Public Convenience and Necessity to Purchase Pipeline and Other Related Assets; and (3) Approval of Financing,*

Confidential Information Subject to this Petition

23. The information for which KAWC is seeking confidential treatment is not known outside of KAWC, its consultants with a need to know the information, and the Company's counsel, is not disseminated within KAWC 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 in the utility industry.

24. KAWC 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.

25. If the Commission disagrees with this request for confidential protection, it must hold an evidentiary hearing (a) to protect KAWC'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.[20]

26. In compliance with 807 KAR 5:001, Section 13, KAWC is providing notice that the confidential attachments to PSC 2-70, AG 1-1 AG 1-15, AG 1-41, AG 1-107, AG 1-111, AG 1-122, AG 1-128, AG 1-133, AG 1-172, AG 1-186, AG 1-189, LFUCG 1-2, and LFUCG 1-23, are confidential in full.

27. For the attachments provided in response to AG 1-2, and AG 1-5, as well as KAWC's responses to AG 1-63, AG 1-126 and AG 1-141, which are not entirely confidential, KAWC is filing with the Commission one electronic copy that identifies with redactions the information for which confidential protection is sought. KAWC is providing unredacted copies noting the confidential information with highlighting to the Commission.

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

28. Access to the confidential information will be provided to intervenors upon request pursuant to a confidentiality agreement.

29. For the insurance policy numbers provided in response to AG 1-122 and for all items that contain information subject to confidential treatment under KRS 61.878(1)(a), KAWC requests that confidential protection be granted for an indefinite period due to the personal nature of the information contained therein.

30. For all other items, KAWC requests that confidential protection be granted for five years due to the sensitive nature of the information at issue.

WHEREFORE, KAWC respectfully requests the Kentucky Public Service Commission grant confidential protection for the information described herein.

Dated: June 26, 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 June 26, 2026; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

Lindsey W. Ingram III

Counsel for Kentucky-American Water Company