

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

**In the Matter of:**

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

**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 the Attorney General’s (“AG”) Second Request for Information Nos. 3, 4, 5, 6, 8, and 80. 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.<sup>1</sup> Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

***Employee Compensation and Staffing Information***

2. KAWC is providing confidential and proprietary information regarding KAWC and American Water’s strategies for employee compensation and staffing. In response to AG 2-8, KAWC is providing updates to the expected wages, benefits, and vacant positions originally produced in the confidential attachments to AG 1-5. Information on the Company’s outstanding

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<sup>1</sup> KRS 61.878(1)(c)(1).

vacancies, wage, and benefit information, if publicly disclosed, would provide competitors and contractors with sensitive information about the Company's business operations. This information could be used by prospective employees to negotiate higher salaries, by contractors to negotiate more favorable contracts, and by competitors to recruit and hire KAWC and American Water employees. Public disclosure of this information would, therefore, unfairly disadvantage American Water and KAWC relative to their competitors, which would result in commercial harms to the Company.

### ***Confidential Contractor and Vendor Pricing Information***

3. In response to AG 2-80, KAWC is providing documentation of the Company's Support Services Expense, including contracts and quotes from the Company's vendors. Public disclosure of these pricing and contractual terms may impair KAWC's ability to negotiate favorable terms with potential suppliers by revealing the amount KAWC paid or expects to pay for their services. 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.<sup>2</sup>

4. For these reasons, KAWC respectfully requests confidential treatment for its attachments to AG 2-8, and AG 2-80.

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<sup>2</sup> 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 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).

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

5. The Kentucky Open Records Act exempts from disclosure certain private and personal information.<sup>3</sup>

***Confidential Compensation Information***

6. 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.”<sup>4</sup> Additionally, the Kentucky Supreme Court has characterized “one’s income” as “intimate” information of a private nature.<sup>5</sup>

7. In response to Item No. AG 2-3, the Company is providing current and projected wage and bonus information for its non-officer employees in an Excel format. Additionally, the Company’s attachment to AG 2-4 includes salary information for its Engineering Director position for the years 2021-2025. Prior to 2026, the Company designated Engineering Director as a non-officer position. KAWC requests confidential protection for all non-officer compensation information.

8. Public disclosure of the salary information of non-officer employees invades the privacy rights of these individuals and provides insight into the Company’s salary determinations. 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).

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<sup>3</sup> KRS 61.878(1)(a).

<sup>4</sup> *Zink v. Dep’t of Workers’ Claims, Labor Cabinet*, 902 S.W.2d 825, 828 (Ky. App. 1994).

<sup>5</sup> *Cape Publ’ns, Inc. v. Univ. of Louisville Found., Inc.*, 260 S.W.3d 818, 822 (Ky. 2008).

9. 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**.<sup>6</sup>

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 exposing agency action to public scrutiny, then countervailing interests, such as privacy, must prevail.”<sup>7</sup>

10. 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.”<sup>8</sup> In the same order, the Commission concluded, “Thus, the salary paid to each individual within a classification is entitled to protection from public disclosure.”<sup>9</sup>

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<sup>6</sup> 902 S.W.2d at 828-29 (Ky. App. 1994) (emphasis added).

<sup>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> *Id.*

11. 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.<sup>10</sup> 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.<sup>11</sup>

12. Relatedly, the Company is including employee identification numbers in attachments provided in response to AG 2-4, 2-5, and 2-6. In contrast to employee compensation information, the Commission has recognized that public disclosure of both officer and non-officer employee identification numbers constitutes an invasion of personal privacy, and has granted confidential treatment to *all* employee identification numbers.<sup>12</sup>

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<sup>10</sup> *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).

<sup>11</sup> *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 that Kentucky-American’s labor records should be subject to confidential protection for an indefinite period under KRS 61.878(1)(a)).

<sup>12</sup> *Application of Kentucky-American Water Company for an Adjustment of Rates*, Case No. 2015-00418, Order at 3 (Ky. PSC Aug. 26, 2016); *Electronic Application of Fleming-Mason Energy Cooperative, Inc. for a General Adjustment of Rates*, Case No. 2023-00223, Order at 2-3 (Ky. PSC Dec. 21, 2023).

13. For these reasons, KAWC respectfully requests confidential treatment for the non-officer employee compensation information and all employee identification numbers being produced in response to AG 2-3, AG 2-4, AG 2-5, and AG 2-6.

**Confidential Information Subject to this Petition**

14. 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.

15. 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.

16. 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.<sup>13</sup>

17. In compliance with 807 KAR 5:001, Section 13, KAWC is providing notice that the confidential attachments to AG 2-3 and AG 2-80 are confidential in full.

18. For the attachments provided as part of the Company's response to AG 2-4, AG 2-5, AG 2-6, and AG 2-8, 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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<sup>13</sup> *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

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

20. 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.

21. 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: July 30, 2026

Respectfully submitted,



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Lindsey W. Ingram III

Monica H. Braun

[l.ingram@skofirm.com](mailto:l.ingram@skofirm.com)

[monica.braun@skofirm.com](mailto:monica.braun@skofirm.com)

Stoll Keenon Ogden PLLC

300 West Vine Street, Suite 2100

Lexington, KY 40507

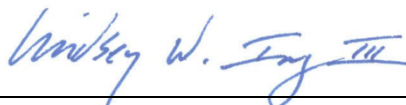
Telephone: (859) 231-3000

Facsimile: (859) 259-3503

*Counsel for Kentucky-American Water Company*

### **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 July 30, 2026; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

A handwritten signature in blue ink, reading "Lindsey W. Engle".

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*Counsel for Kentucky-American Water Company*