

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PROPOSED ADJUSTMENT OF WHOLESAL )  
WATER SERVICE RATES OF THE CITY OF ) CASE NO.  
GREENSBURG ) 2009-00428

O R D E R

On December 11, 2009, the Commission issued an information request in this case. Item 6 of the information request sought the following information:

List all persons on Greensburg's payroll during the proposed test period. For each employee, state his or her job duties, total wages paid during the fiscal year, current salary or wage rate, and the percentage of work hours spent performing duties for each city division (e.g., water, sewer, police department, public works) during the fiscal year. If Greensburg's records do not permit the allocation of an employee's work hours among city divisions, provide an estimate for each employee and explain how Greensburg derived the estimate.

In response, the City of Greensburg ("Greensburg") filed copies of its employees' 2009 W-2 tax forms. In an attempt to comply with the Commission's directive to redact "any personal identifiers of a sensitive nature, such as social security numbers, tax identification numbers, insurance policy identification numbers, and bank account numbers," Greensburg blacked out its employees' social security numbers. All other information—including the employees' home addresses, their tax withholding information, and Greensburg's federal employer identification number—were disclosed on the tax forms.

The Commission may grant confidential treatment to material filed with it when the material falls within the exclusions from disclosure requirements enumerated in the Kentucky Open Records Act.<sup>1</sup> “Public records containing information of a personal nature where the disclosure thereof would clearly constitute a clearly unwarranted invasion of personal privacy” are exempt from disclosure by a state agency.<sup>2</sup> We have previously granted confidential treatment for personal identifiers, such as social security numbers and employer identification numbers.<sup>3</sup>

Prior to 1976, federal law characterized tax return information as public record. Although there were some controls on disclosure of tax information at that time, the Senate reported: “Questions have been raised and substantial controversy created as to whether the present extent of actual and potential disclosure of [tax] return and return information to other Federal and state agencies for nontax purposes breaches a reasonable expectation of privacy on the part of the American citizen with respect to such information.”<sup>4</sup> As a result, Congress tightened disclosure requirements when it enacted the Tax Reform Act of 1976.<sup>5</sup> The General Assembly has also enacted legislation that protects an individual’s income tax information from being unjustifiably

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<sup>1</sup> See 807 KAR 5:001, Section 7(d).

<sup>2</sup> KRS 61.878(1)(a).

<sup>3</sup> See Case No. 2009-00403, Alternate Rate Adjustment Filing of Evergreen Disposal System, Inc. (Ky. PSC Oct. 19, 2009).

<sup>4</sup> S. Rep. 94-938, at 317 (1976).

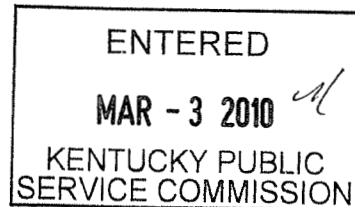
<sup>5</sup> See 26 U.S.C. § 6103.

disclosed by state tax-related agencies.<sup>6</sup> The Commission, therefore, finds that the W-2 forms filed by Greensburg fall within the exclusion provided by KRS 61.878 and should be afforded confidential treatment.


The Commission, on its own motion, THEREFORE ORDERS that:

1. Item 6 of Greensburg's response to the Commission's information request, which was received on February 26, 2010, shall be afforded confidential treatment.
2. The Executive Director shall remove Item 6 of Greensburg's response to the Commission's information request from the Commission's public files and shall place it in our confidential files.

By the Commission



ATTEST:

  
Executive Director

<sup>6</sup> See KRS 131.190.

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