

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY-)	CASE NO.
AMERICAN WATER COMPANY FOR AN)	2015-00418
ADJUSTMENT OF RATES)	

ORDER

This matter arises on petitions filed by Kentucky Kentucky-American Water Company (Kentucky-American) on January 29, 2016, April 15, 2016, and June 29, 2016, all of which requested confidential treatment for designated materials for an indefinite period.

In the January 29, 2016 petition, Kentucky-American requested confidential treatment for the 2016 General Rate Case Total Compensation Study (Study) that was filed as an attachment to the direct testimony of Robert V. Mustich. The designated materials contain compensation philosophy, market positioning, performance programs, and position-specific information for certain Kentucky-American employees. Kentucky-American asserted that public disclosure of the designated materials would permit an unfair competitive advantage to competitors, and the information is thus generally recognized as confidential and is exempt from public disclosure pursuant to KRS 61.878(1)(a) and (c).

In the April 15, 2016 petition, Kentucky-American requested confidential treatment for its supplemental response to Commission Staff's Second Request for Information (Staff's Second Request), item 33(c)-(d), which contains compensation information for each Service Company employee participating in long-term performance plans (LTPP)

and American Water Works Company, Inc.'s Annual Performance Plan (APP). By Order entered August 31, 2016, the Commission granted in part and denied in part Kentucky-American's request for the same information provided in response to a different data request. The Commission granted confidential protection to information in the LTPP and APP related to non-executive employees, and denied confidential protection related to executive employees.

In the June 29, 2016 petition, Kentucky American requested confidential treatment for previously filed data responses that were filed inadvertently in the public record. The designated materials filed in response to Commission Staff's First Request for Information (Staff's First Request), Item 5, consist of business plans, financial strategies, pension expectations, and budget assumptions. The designated materials filed in a supplemental response to Staff's First Request, Item 18, and in responses to Commission Staff's Third Request for Information (Staff's Third Request), Item 16 and the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention's Second Request for Information (Attorney General's Second Request), Item 7 contain APP and LTPP brochures. Kentucky-American stated that the Commission approved confidential treatment for the same or similar incentive plan informational brochures in a previous case.¹ Kentucky-American asserted that public disclosure of the business plans and incentive plan brochures would provide competitors and vendors with material financial information that would result in commercial harm to Kentucky-American.

Based upon the petitions and designated materials, and being otherwise sufficiently advised, the Commission finds as follows:

¹ Case No. 2008-00427, *Adjustment of Rates of Kentucky-American Water Company* (Ky. PSC Mar. 12, 2009).

1. The designated materials contained in the January 29, 2016 petition meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001 Section 13.

2. The designated materials contained in the April 15, 2016 petition is granted in part and denied in part. The designated materials pertaining to non-executive employees meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001 Section 13. The Commission has held consistently that executive officer compensation information is not entitled to confidential protection, and therefore the designated materials pertaining to executive employees do not meet the criteria for confidential treatment.

3. The designated materials contained in the June 29, 2016 petition meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

IT IS THEREFORE ORDERED that:

1. Kentucky-American's January 29, 2016 and June 29, 2016 petitions for confidential protection are granted.

2. Kentucky-American's April 15, 2016 petition is granted in part and denied in part. The designated materials in the April 15, 2016 petition, with the exception of executive office compensation information, is granted confidential protection. The executive office compensation information in the April 15, 2016 petition is denied confidential protection.

3. The designated materials for which confidential protection was granted shall not be placed in the public record or made available for public inspection for an indefinite time, or until further Orders of this Commission.

4. Within 30 days of the date of this Order, Kentucky-American shall file a revised response to Staff's Second Request, item 33(c)-(d), reflecting as unredacted the material for which confidential protection was denied in ordering paragraph 2.

5. Use of the materials in question for which confidential protection was granted in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

6. Kentucky-American shall inform the Commission if the materials in question for which confidential protection was granted become publicly available or no longer qualify for confidential treatment.

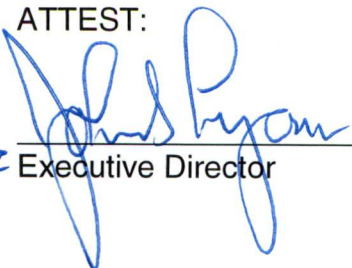
7. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, then Kentucky-American shall have 30 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Kentucky-American is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

8. The Commission shall not make the requested materials available for inspection for 30 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Kentucky-American to seek a remedy afforded by law.

By the Commission

ENTERED
APR 17 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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Case No. 2015-00418

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