

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF GRAYSON)	CASE NO.
COUNTY WATER DISTRICT FOR A RATE)	2021-00191
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

This matter arises on two motions filed by Grayson County Water (Grayson District). On July 6, 2021, Grayson County Water District (Grayson District) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(a), requesting that the Commission grant confidential treatment for an indefinite period for certain personally identifiable information filed with its application.

On August 13, 2021, Grayson District filed a second motion, also pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(a), requesting that the Commission grant confidential treatment for an indefinite period for similar personally identifiable information filed in its responses to Commission Staff's First Request for Information (Staff's First Request), Item 1A.

INFORMATION FOR WHICH PROTECTION IS SOUGHT

Grayson District identified the following information for which it sought protection:

1. The electronic versions of Exhibits L-1 and L-2 to its application for rate adjustment, consisting of general ledgers for 2019 and 2020. The general ledgers contain employee names with wage and benefit information for each. Grayson District requests the employee names (other than its chief executive officer and commissioners) listed in

its general ledgers under Account 601 – Payroll Expense, as found in the PDF version of Exhibits L-1 and L-2, be afforded confidential treatment and exempted from public disclosure or inspection. This information is located at pages 466 through 564 of the 2019 General Ledger and pages 464 through 572 of the 2020 General Ledger. It consists of the employees’ names, all redacted in the publicly-filed version. Because of difficulties in redacting materials from working Excel spreadsheets, Grayson District requests that that the Excel spreadsheet versions of Exhibits L-1 and L-2 be afforded confidential treatment in their entirety; and

2. The electronic general ledger in Excel format for the first sixth months of 2021, containing the same personally identifying information about employee wages and benefits. This information is located at pages 233 through 279 of the 2021 General Ledger and consists of the employees’ names.¹

For all these exhibits, Grayson District requested the employee names (other than its chief executive officer and commissioners) listed in its general ledger under Account 601 – Payroll Expense as found in the PDF version of Attachment 1A-1 be afforded confidential treatment and exempted from public disclosure or inspection. Grayson District further explained it is not asking the Commission to protect “comprehensive information regarding the pay and benefits of each job position.”² However, Grayson District requests that that the Excel spreadsheet versions of Exhibits L-1 and L-2 be afforded confidential treatment in their entirety, because of difficulties in redacting materials from a spreadsheet file.

¹ Grayson District’s motion incorrectly identified the applicable pages as pages 466 through 564 of the 2019 General Ledger and pages 464 through 572 of the 2020 General Ledger.

² August 13, 2021 motion at 3.

LEGAL STANDARD

The Commission is a public agency subject to Kentucky Open Records Act,³ which requires that all public records “be open for inspection by any person, except as otherwise provided by KRS 61.870 to KRS 61.884.⁴ The exceptions to the free and open examination of public records should be strictly construed.⁵ The party requesting that the materials be granted confidential protection has the burden of establishing that one of the exemptions is applicable.⁶ KRS 61.878(1)(a) provides an exception to the requirement for public disclosure of “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”

DISCUSSION AND FINDINGS

In support of its motion, Grayson District argued that employee-identifying information is private and has been treated as confidential by the Commission, noting that the Commission in previous cases stated 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.”⁷ Grayson District’s motion stated that none of the information for which confidential treatment is sought involves the pay or

³ KRS 61.870 through 61.884.

⁴ KRS 61.872(1).

⁵ KRS 61.878.

⁶ 807 KAR 5:001, Section 13(2)(c).

⁷ Case No. 1989-00374, *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* (Ky. PSC Apr. 30, 1997) at 2.

benefits provided to the members of Grayson District's board of directors or chief executive officer.

Having considered the motion and the material at issue, the Commission finds that the personally identifiable information for Grayson District's non-executive employees constitute public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy and are exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(a).

IT IS THEREFORE ORDERED that:

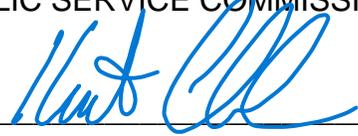
1. Grayson District's July 6, 2021 and August 13, 2021 motions for confidential treatment are granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for an indefinite or until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).
4. Grayson District shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Grayson District shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the

exclusions from disclosure requirements established in KRS 61.878. If Grayson District is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Grayson District to seek a remedy afforded by law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman

Commissioner



ATTEST:



Executive Director

*Gerald E Wuetcher
Attorney at Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Holly Nicholas
Kentucky Eng Group PLLC
P.O. Box 1034
Versailles, KENTUCKY 40383

*Grayson County Water District
21 Shull White Road
P. O. Box 217
Leitchfield, KY 42754

*Kevin Shaw
Manager
Grayson County Water District
21 Shull White Road
P. O. Box 217
Leitchfield, KY 42754