

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN)	
KENTUCKY WATER DISTRICT FOR AN)	CASE NO.
ADJUSTMENT OF RATES; ISSUANCE OF)	2022-00161
BONDS; FINANCING; AND TARIFF REVISIONS)	

ORDER

On August 3, 2022, Northern Kentucky Water District (Northern Kentucky District) filed a motion, pursuant to 807 KAR 5:001E, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period for Exhibit 37-1 provided in response to Commission Staff's First Request for Information (Staff's First Request) which contains salary and compensation studies completed by third party vendors.

In support of its motion, Northern Kentucky District argued that the confidentially filed information is exempt from public disclosure under two provisions of KRS 61.878. Under KRS 61.878(1)(a), documents are exempt if they are "[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." In addition, KRS 61.878(1)(c)(1) exempts from public disclosure "[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records."

The document that Northern Kentucky District sought confidential treatment for is the entirety of a wage and salary report generated by third party Employers Resource Association (ERA) containing analysis and national and regional compensation data for comparison. The report includes non-executive employee compensation information by title, with no names disclosed. Northern Kentucky District argued that its employees have a privacy interest under KRS 61.878(1)(a) in their wage and the wage, salary, and benefits information. Northern Kentucky District also argued that the entire report, if disclosed, could provide individuals seeking future employment with an unreasonable commercial advantage by knowing its pay scale and benefits costs. Likewise, this information could present a commercial advantage to other employers located in Northern Kentucky District's general service area who might compete with Northern Kentucky District for similarly skilled current and prospective employees.

Having considered the motion and the material at issue, the Commission finds that Northern Kentucky District's motion for confidential treatment is granted. ERA's report contains proprietary analysis and data intended for confidential use. Release of this report would be detrimental to Northern Kentucky District's future negotiations with current and prospective employees and could be used by competitors to compete for employees.

The designated material therefore meets the criteria for confidential treatment and is exempted from public disclosure for an indefinite period pursuant to 807 KAR 5:001E, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Northern Kentucky District's motion for confidential treatment is 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 period 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 5:001E, Section 13(9).

4. Northern Kentucky 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, Northern Kentucky 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 Northern Kentucky 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 Northern Kentucky District to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ENTERED
JAN 19 2023
rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

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