

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF MORGAN)	CASE NO.
COUNTY WATER DISTRICT FOR A RATE)	2024-00010
ADJUSTMENT PURSUANT TO 807 KAR 5:076)	

ORDER

On April 26, 2024, Morgan County Water District (Morgan District) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for ten years for the attachment to Morgan District's response to Commission Staff's First Request for Information (Staff's First Request), Item 6a. The attachment contained specific employee identity and compensation information.¹

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."² Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.³ The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.⁴ KRS 61.878(1)(a) provides an exception to the requirement for public disclosure of records that contain "information of a personal nature

¹ Morgan District's Motion for Confidential Treatment (Motion for Confidential Treatment) (filed Apr. 26, 2024) at 2.

² KRS 61.872(1).

³ See KRS 61.871.

⁴ 807 KAR 5:001, Section 13(2)(c).

where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”⁵

In support of its motion, Morgan District argued that public disclosure of the designated materials would constitute a clearly unwarranted invasion of personal privacy and may fairly harm Morgan District’s competitive position in the marketplace.⁶ Morgan District stated that the information includes detailed, private material about Morgan District’s employees and is of a personal nature.⁷ Morgan District also argued that the information is proprietary information that is retained on a “need-to-know” basis” and is only distributed to those holding select positions who must have access for business reasons.⁸ Morgan District stated this type of information is generally recognized as confidential and proprietary in the water industry.⁹ Morgan District also noted that it was not seeking confidential treatment for the compensation information of the general manager, Shannon Elam.¹⁰

Having considered the motion and the material at issue, the Commission finds that employee position titles in Morgan District’s response to Staff’s First Request, Item 6a is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(a).

⁵ KRS 61.878(1)(a).

⁶ Motion for Confidential Treatment at 2.

⁷ Motion for Confidential Treatment at 2.

⁸ Motion for Confidential Treatment at 2.

⁹ Motion for Confidential Treatment at 2.

¹⁰ Motion for Confidential Treatment at 2.

IT IS THEREFORE ORDERED that:

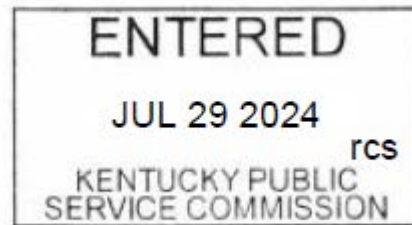
1. Morgan District's April 26, 2024 motion for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for ten years or until further order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).
4. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Morgan District shall inform the Commission and file with the Commission an unredacted copy of the designated material.
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, Morgan 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 Morgan 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 Morgan District to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION

Chairman

Vice Chairman

Commissioner



ATTEST:



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