



The Commission denied the request for the Boston Consulting Group report pursuant to K.S.A. 45-221(a)(1), which provides that a public agency shall not be required to disclose records if such disclosure is prohibited by law. The Commission's response noted that under K.S.A. 66-1220a the Commission shall not disclose trade secret or confidential information unless the Commission finds such disclosure is warranted after consideration of four factors. The Commission's response also informed Spicer of the process by which disclosure of such information comes before the Commission. Under K.A.R. 82-1-221a(b)(1), if the Commission receives a request for information, the party seeking to maintain the confidentiality of the information shall respond to the request within five working days. The response shall substantiate the basis for nondisclosure, after which the entity requesting the information may reply within five working days.

3. On February 5, 2021, the KCC informed Evergy that a request for confidential information had been received.<sup>3</sup>

4. On February 9, 2021, Evergy responded to the information request noting that the documents requested represented "strategies employed, to be employed, or under consideration" and "private technical, financial and business information" which would "qualify as confidential."<sup>4</sup> Evergy also referred the Commission generally to Evergy's filings in the 21-EKME-088-GIE Docket stating that "Evergy will not repeat the arguments it has made but confirms that this information remains confidential and should not be publicly disclosed."<sup>5</sup>

5. On February 9, 2021, the KCC sent Spicer a copy of Evergy's reply and informed her that she had 5 days to reply under K.A.R. 82-1-221a(b)(1).<sup>6</sup> Spicer did not submit a reply. The Commission therefore, accepts Evergy's designation of the information as confidential.

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<sup>3</sup> *Id.* at 28.

<sup>4</sup> *Id.* at 29-30.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 31.

6. As noted above, under K.A.R. 82-1-221a(b)(3) the Commission's determination of whether to require disclosure of confidential information should take place in accordance with K.S.A. 66-1220a. Under K.S.A. 66-1220a the Commission shall not disclose any information which is a trade secret unless the Commission finds that disclosure is warranted after considering four factors. Those factors are (1) Whether disclosure will significantly aid the commission in fulfilling its functions; (2) the harm or benefit which disclosure will cause to the public interest; (3) the harm which disclosure will cause to the corporation, partnership or sole proprietorship and (4) alternatives to disclosure that will serve the public interest and protect the corporation, partnership or sole proprietorship.

7. Given the information already provided to Spicer and the lack of response to Everage's contention that the Boston Consulting Group report should be protected, the Commission is unable to find that disclosure is warranted under K.S.A. 66-1220a.

**THEREFORE, THE COMMISSION ORDERS:**

A. The KORA request for the Boston Consulting Group report is denied pursuant to K.S.A. 45-221(a)(1).


B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>7</sup>

**BY THE COMMISSION IT IS SO ORDERED.**

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 08/26/2021

DGC

  
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Lynn M. Retz  
Executive Director

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<sup>7</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**CERTIFICATE OF SERVICE**

21-GIMX-307-MIS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 08/26/2021.

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