

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY)
CORPORATION FOR CONTINUATION) CASE NO. 2012-00440
OF ITS HEDGING PROGRAM)

ORDER REGARDING REQUEST FOR CONFIDENTIAL TREATMENT

On April 30, 2014, Atmos Energy Corporation (“Movant”) moved, pursuant to 807 KAR 5:001, Section 13,¹ that certain materials filed with the Commission be afforded confidential treatment and not be placed in the public record subject to public inspection. The information Movant seeks to have treated as confidential was included in Movant’s Final Hedging Report (“Report”) for the 2013-2014 heating season. Movant states that portions of the Report contain sensitive, proprietary, and confidential pricing information about Movant’s hedging strategies, including the prices Movant would likely pay for hedging contracts under various market conditions, and that disclosure of this information could put Movant at a commercial disadvantage in future hedging negotiations.

Movant states that the information for which it seeks confidential protection would not, as a matter of company policy, be disclosed to any person or entity, except as required by law or pursuant to a court order or subpoena and would not be disclosed to any personnel of Movant except those who need to know in order to discharge their responsibility. Movant also states that the Commission has historically granted Movant

¹ Atmos Energy Corporation filed its petition pursuant to 807 KAR 5:001, Section 7; however, 807 KAR 5:001 was amended effective January 4, 2013, with Section 13 replacing Section 7 regarding confidential materials.

confidential protection for information concerning the actual price being paid by Movant to individual marketing companies and other suppliers of natural gas.

Movant further asserts that this information is entitled to confidential treatment as this information constitutes a trade secret pursuant to the two-prong test in KRS 365.880:² (a) the economic value of the information as derived by not being readily ascertainable by other persons who might obtain economic value by its disclosure; and, (b) the information is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The economic value of the information is derived by Movant's maintaining the confidentiality of the information, since competitors and entities with whom Movant transacts business could obtain economic value by its disclosure.

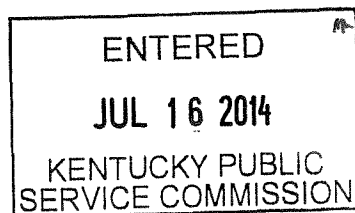
Based on a review of the information, and pursuant to KRS 61.878 and 807 KAR 5:001, Section 13, and KRS 365.880, the Commission finds that disclosure of the information requested to be held confidential would permit unfair commercial advantage to Movant's competitors and is protected as a trade secret under KRS 365.880(4). The Commission also finds that use of confidential materials during formal proceedings should be made in accordance with 807 KAR 5:001, Section 13(9), and that if the information becomes publicly available or no longer warrants confidential treatment, Movant should, pursuant to 807 KAR 5:001, Section 13(10), inform the Commission so that the information may be placed in the public record. Finally, the Commission finds that this information should be maintained as a non-public part of the Commission's Post Case Referenced Correspondence file for an indefinite period.

² Atmos's Application for confidential protection cites to the two-prong definition of trade secret under KRS 265.880. The correct citation is KRS 365.880(4).

IT IS THEREFORE ORDERED that:

1. Movant's motion for confidential protection is hereby granted.
2. The materials for which Movant seeks confidential treatment shall neither be placed in the public record nor made available for public inspection for an indefinite period.
3. Use of the materials in question in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).
4. Movant shall inform the Commission if the materials in question become publicly available or no longer qualify for confidential treatment.
5. 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, the Movant shall have 20 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 Movant is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.
6. The Commission shall not make the requested materials available for inspection for 20 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Movant to seek a remedy afforded by law.

By the Commission



ATTEST:

Stephanie Bell for JD
Executive Director