

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY FRONTIER)	
GAS, LLC FOR ALTERNATIVE RATE)	CASE NO.
ADJUSTMENT)	2017-00263

ORDER

On June 30, 2017, Kentucky Frontier Gas, LLC (“Frontier”) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878 requesting that the Commission grant confidential protection for an indefinite period of time to Frontier’s state and federal tax returns that were required to be filed with the application for an adjustment or rates.

As a basis for its request, Frontier refers to KRS 61.878(1)(c), and states that the designated tax material contains confidential and commercial information that if disclosed, would provide an unfair commercial advantage to its competitors. Frontier argues that the natural gas business is highly competitive, and that non-regulated competitors could use the confidential information to encroach upon traditional markets. Frontier further asserts that the tax information is not publicly available and is internally protected by Frontier as proprietary information.

Frontier also argues that KRS 61.878(1)(k) prevents the public disclosure of records that federal law or regulation prohibits to be disclosed, and per 26 U.S.C.A., Section 6103(a)¹ federal tax returns shall be kept confidential and not publicly disclosed. Frontier further states that according to KRS 131.190(1), all income tax information filed

¹ Frontier incorrectly cited to 26 U.S.C.A. 5 6103(a). The correct citation is 26 U.S.C.A. Section 6103(a).

with the Kentucky Revenue Cabinet shall be treated in a confidential manner, and that the state taxes should therefore be deemed confidential under KRS 61.878(1)(l),² which does not allow records or information to be disclosed if made confidential by the Kentucky General Assembly.

Having considered the petition and the material at issue, the Commission finds that state and federal tax returns are generally recognized as confidential or proprietary; such material therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878.

IT IS THEREFORE ORDERED that:

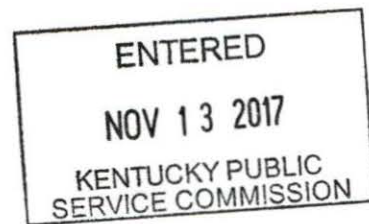
1. Frontier's petition for confidential protection is granted.
2. Frontier's state and federal tax returns shall not be placed in the public record or made available for public inspection until further Order of this Commission.
3. Use of the material in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
4. Frontier shall inform the Commission if the material in question becomes publicly available or no longer qualifies for confidential treatment.
5. If a non-party 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, Frontier shall have 20 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 Frontier is unable

² Frontier incorrectly cited to KRS 61.878(1)(1). The correct citation is KRS 61.878(1)(l).

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 20 days following an Order finding that the material no longer qualifies for confidential treatment in order to allow Frontier to seek a remedy afforded by law.

By the Commission



ATTEST:


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