

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ATMOS	)	CASE NO.
ENERGY CORPORATION FOR AN	)	2018-00281
ADJUSTMENT OF RATES	)	

ORDER

This matter arises on a petition filed on December 10, 2018, by Atmos Energy (Atmos), pursuant to 807 KAR 5:001, Section 13, requesting that designated materials filed with the Commission be afforded confidential protection for an indefinite period.

In support of its petition, Atmos states that the designated materials in its Response to the Commission Staff's Second Request for Information, Item 21(j), Attachment 3, and the Response to the Attorney General's First Request for Information (Attorney General's First Request), Item 53(e), Attachment 2, include detailed classification and evaluation system benchmarks and parameters to be utilized by Atmos in connection with its wage and salary plan and are prepared by its actuarial consultant. Atmos argues that public disclosure of this information would provide competitors with access to exclusive information regarding internal employment and compensation strategies. Therefore, because this information contains proprietary work product that requires confidentiality in order to retain its commercial value, Atmos believes that the designated information should be confidential pursuant to KRS 61.878(1)(c).

Atmos further contends that the release of the tax data in its Response to the Attorney General's First Request, Item 45, Attachments 1 and 2; and Item 47, Attachment

1, is prohibited because KRS 61.878(1)(k), prevents the public disclosure of records that federal law or regulation prohibits to be disclosed. Pursuant to 26 U.S.C.A Section 6103(a), federal tax returns shall be kept confidential and not publicly disclosed. Additionally, KRS 131.190(1) requires that all income tax information filed with the Kentucky Revenue Cabinet be treated in a confidential matter. Consequently, Atmos contends that the state taxes are confidential pursuant to KRS 61.878(1)(l), which does not allow records or information to be disclosed if made confidential by the Kentucky General Assembly.

Having considered the petition and the materials at issue, the Commission finds that the designated materials as described in Atmos's December 10, 2018 petition meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1), (k), (l), and KRS 131.190(1).

IT IS THEREFORE ORDERED that:

1. Atmos's December 10, 2018 petition for confidential protection is granted.
2. The designated materials shall not be placed in the public record or made available for public inspection for an indefinite period, or until further Orders of this Commission.
3. Use of the designated materials in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
4. Atmos shall inform the Commission if the designated materials become publicly available or no longer qualify for confidential treatment.
5. If a non-party to this proceeding requests to inspect the designated materials granted confidential treatment by this Order and the period during which the

materials have been granted confidential treatment has not expired, Atmos shall have 30 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 Atmos 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 designated materials available for inspection for 30 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Atmos to seek a remedy afforded by law.

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By the Commission

ENTERED  
FEB 26 2020  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Acting General Counsel

Case No. 2018-00281

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