

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS ADJUSTMENT)	CASE NO.
FILING OF ATMOS ENERGY CORPORATION)	2022-00307

ORDER

On September 29, 2022, Atmos Energy Corporation (Atmos) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period for the following information contained in Atmos's Quarterly Gas Supply Clause filing:

- a. Exhibit D, Page 5 of 6 which purportedly contains confidential information from which the actual price being paid by Atmos for natural gas to its suppliers can be determined;
- b. The Weighted Average Cost of Gas (WACOG) schedule in support of Exhibit C, Page 2 of 2, which purportedly contains confidential information pertaining to prices projected to be paid by Atmos for purchase contracts;
- c. Invoices and monthly usage reports for each month of the reporting period; and
- d. Purchases of sustainable natural gas from a renewable source during the reporting period identifying the supplier, cost and amount.

In support of its petition, Atmos argued that public disclosure of this information would have serious adverse consequences to Atmos and its customers. Atmos argued that public disclosure of this information would result in competitive harm by adversely impacting Atmos's ability to negotiate future gas supply contracts at favorable prices, and therefore would impair Atmos's ability to minimize the price of natural gas paid by Atmos's customers.

Atmos contended that if detailed information concerning its gas supply contracts, including commodity costs, demand and transportation charges, and reservation fees on specifically identified pipelines were made available to Atmos's competitors that Atmos would be placed in an unfair commercial disadvantage. Atmos further stated that its competitors for gas supply would be able to gain information that is otherwise confidential about Atmos's gas purchases and transportation costs and strategies.

Atmos also contended that if the information contained in the WACOG schedule filed in support of Exhibit C, page 2 of 2, was publicly disclosed that this could put Atmos at an unfair commercial disadvantage in future negotiations, because it contains information regarding prices projected to be paid by Atmos in the future, which is sensitive and proprietary. Finally, Atmos argued that the invoices and monthly usage reports identify Atmos's suppliers, unit costs, volumes and interconnection points the disclosure of which would provide suppliers with all of the relevant competitive information about Atmos's gas supply purchasing practices. Atmos requests that the material at issue remain confidential indefinitely and in its entirety.

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."¹ In support of its petitions, Atmos argued for the application of KRS 61.878(1)(c)(1), which exempts from disclosure "[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records."

¹ KRS 61.872(1).

Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

Having considered the petition and the material at issue, the Commission finds that Atmos's petition should be granted. Competitors could use this information to compete with Atmos for these suppliers' business or suppliers could use the data to unfairly negotiate with Atmos. The material at issue is generally recognized as confidential or proprietary; it 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(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Atmos's petition 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 an indefinite period 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. Atmos shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
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

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

granted confidential treatment has not expired, Atmos 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 Atmos 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 Atmos to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION


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Vice Chairman


Commissioner



ATTEST:


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