

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY)	
CORPORATION FOR APPROVAL OF A SPECIAL)	CASE NO.
CONTRACT PURSUANT TO ITS ECONOMIC)	2019-00145
DEVELOPMENT RIDER)	

ORDER

This matter arises on a petition filed on July 1, 2019, by Atmos Energy Corporation (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 filed on July 1, 2019, Atmos states that public disclosure of the designated materials contained in its response to Commission Staff's Initial Request for Information (Staff's Initial Request), Items 1 and 9. Atmos states that the attachment to the response to Staff's Initial Request, Item 1, contains a cost analysis related to the special contract to determine whether the anticipated revenue from this customer would cover all variable costs incurred to serve the customer and make a contribution to Atmos's fixed costs. Atmos states that the cost analysis includes commercial information that if disclosed would cause substantial competitive harm to Atmos. With respect to Atmos's response to Staff's Initial Request, Item 9, Atmos states that information contained in this response consists of correspondence between Atmos and Diageo relating to preliminary discussions and confirmation of terms of the agreement. Atmos states that disclosure of this information would allow a competitor to

of Atmos's negotiation options as well as specific conditions for obtaining the specific contract terms.

On July 18, 2019, the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), filed an objection to Atmos's July 1, 2019 petition for confidentiality. The Attorney General argues that Atmos has failed to satisfy its burden that the information sought to be kept confidential falls under an exemption in the Kentucky Open Records Act. The Attorney General points out the attachments to Atmos's response to Staff's Initial Request, Item 1, do not contain a cost analysis as referred to by Atmos in its petition. The Attorney General also points out that the responses to Staff's Initial Request, Items 6 and 7 are partially redacted but Atmos's petition did not request confidential protection for information contained in these two responses. Lastly, with respect to the correspondence information contained in the response to Staff's Initial Request, Item 9, the Attorney General argues that Atmos fails to provide any specific support for its assertion that all such communications are entitled to confidential protection.

On July 25, 2019, Atmos filed a response addressing the issues raised by the Attorney General. Atmos states that the confidentiality petition incorrectly referenced the cost analysis as being attached to the response to Staff's Initial Request, Item 1. Atmos states that the cost analysis was attached to its response to Staff's Initial Request, Item 7. Atmos amends its July 1, 2019 confidentiality petition to reflect this correction. Atmos further amends its July 1, 2019 petition to request that its response to Staff's Initial Request, Item 7, which contains the cost analysis, be treated as confidential for the reasons set forth in the original confidentiality petition.

With respect the partially redacted response to Staff's Initial Request, Item 6, Atmos states that the response contained the most recent actual invoice to Diageo, which contained electronic bank account information of Diageo. Atmos points out that under 807 KAR 5:001, Section 4(10), bank account information is required to be redacted.

Atmos states that in light of the Attorney General's objection and upon further review of the correspondence contained in the response to Staff's Initial Request, Item 9, Atmos will amend the July 1, 2019 petition to withdraw the request.

Having considered the record and the materials at issue, the Commission finds that the designated materials contained in its responses to Staff's Initial Request, Items 6 and 7 and as described in Atmos's July 1, 2019 petition, as amended by Atmos's July 25, 2019 filing, meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Atmos's July 1, 2019 petition, as amended, 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.

7. Within seven days of the date of this Order, Atmos shall file revised pages to its response to Staff's Initial Request, Item 9, reflecting as unredacted the information that Atmos has withdrawn from seeking confidential treatment.

By the Commission

ENTERED
JAN 21 2020
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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