

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF COLUMBIA)	
GAS OF KENTUCKY, INC. TO EXTEND ITS GAS)	CASE NO.
COST INCENTIVE ADJUSTMENT)	2020-00378
PERFORMANCE BASED RATE MAKING)	
MECHANISM)	

ORDER

On March 23, 2021, Columbia Gas of Kentucky, Inc. (Columbia Kentucky) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for an indefinite period for Attachment A provided in response to Commission Staff’s Second Request for Information, Item 7.

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 motion, Columbia Kentucky argued for the application of KRS 61.878(1)(c)(1), which exempts records that are “[g]enerally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.” Exceptions to the free and open examination of public records contained in

¹ KRS 61.872(1).

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

Attachment A consists of names of incremental sales buyers, rates, and amounts of gas purchased pursuant to the off-system sales incentive. Columbia Kentucky argued that this information reveals fruits of negotiations, competitive terms, rates, and bids with suppliers. Columbia Kentucky also stated that it reveals legal strategy and confidential negotiations with several contracting parties and disclosure could cause it substantial competitive harm.

Having considered the motion and the material at issue, the Commission finds that Columbia Kentucky's motion should be granted. Columbia Kentucky faces competition in sales to incremental sales buyers and other buyers or competitors could use this information to their advantage and Columbia Kentucky's detriment.⁴ This information 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. Columbia Kentucky's motion for confidential treatment is granted.

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

⁴ See Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Dec. 7, 2021), Order at 4, *citing* Case No. 2016-00200, *Purchased Gas Adjustment Filing of Valley Gas, Inc.* (Ky. PSC July 27, 2017), Order at 2–3.

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

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman

Commissioner



ATTEST:



Executive Director

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