

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO VALLEY	)	
GAS, INC. FOR AN ALLEGED FAILURE TO	)	CASE NO.
COMPLY WITH COMMISSION ORDERS AND	)	2023-00331
KRS 278.160	)	

ORDER

On January 18, 2024, Valley Gas, Inc. (Valley Gas) 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 redactions from its responses to Commission Staff’s Second Request for Information, Item 1, Attachments 1A and 1B.

Valley Gas argued that the redacted material is exempt from public disclosure under KRS 61.878(1)(a) which exempts “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy” and KRS 61.878(1)(c)(1), which exempts “[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.”

The redacted information consists of customer Mago Construction’s (Mago’s) gas usage pursuant to special contract with Valley Gas. Valley Gas argued that disclosing usage would constitute a clearly unwarranted invasion of personal privacy under KRS 61.878(1)(a), would disadvantage Mago with its competitors, could prevent other

potential special contract partners from negotiating contracts with Valley Gas in the future, and should therefore also be exempt under KRS 61.878(1)(c)(1).

Having considered the petition and the material at issue, the Commission finds that Valley Gas's petition should be granted in part and denied in part. Since Mago is not a person, it does not have an expectation of "personal privacy" and the information is not "of a personal nature" protected by KRS 61.878(1)(a). Also, Mago's potential competitive disadvantage does not trigger protection under KRS 61.878(1)(c)(1) because Mago is not "the entity that disclosed the records." However, the redacted information, if disclosed, could disadvantage Valley Gas with its competitors by hampering Valley Gas's ability to negotiate future special contracts due to usage disclosure requirements that could disadvantage its potential special contract partners.<sup>1</sup> However, the Commission finds that indefinite protection should be denied, as personal privacy is not at issue. The confidential material will be obsolete within ten years and should therefore be exempted from public disclosure for ten years<sup>2</sup> pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Valley Gas's January 18, 2024 petition for confidential treatment is granted in part and denied in part.
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 ten years or until further order of this Commission.

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<sup>1</sup> See Case No. 2016-00117, *Electronic Joint Application of Kenergy Corp. and Big Rivers Electric Corporation for Approval of Contracts* (Ky. PSC Dec. 22, 2021), Order at 2.

<sup>2</sup> Case No. 2016-00117, Dec. 22, 2021 Order at 2.

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. Valley Gas 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, Valley Gas 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 Valley Gas 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 Valley Gas to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
MAR 04 2024 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

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