

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS ADJUSTMENT	)	CASE NO.
FILING OF ATMOS ENERGY CORPORATION	)	2022-00086

ORDER

On March 31, 2022, Atmos Energy Corporation (Atmos) filed two petitions, 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 filed in support of its purchased gas adjustment filing in Case No. 2022-00033:<sup>1</sup>

1. The attachments provided in Atmos' responses to Commission Staff's First Request for Information (Staff's First Request), Items 1 and 2, which Atmos claimed as confidential because they disclose the actual price being paid by Atmos for natural gas to its suppliers.

2. The attachment provided in Atmos' response to Staff's First Request, Item 11 containing an internal audit report (Gas Supply Review, August 2019) in which specific gas supply processes and software packages are discussed in detail.

3. Page 5 of Exhibit D attached to the second petition for confidentiality containing information that Atmos claimed would allow a competitor to determine the price Atmos pays for natural gas.

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<sup>1</sup> Case No. 2022-00033, *Electronic Purchased Gas Adjustment Filing of Atmos Energy Corporation* (Ky. PSC Feb. 28, 2022), final Order.

4. Page 2 of the Weighted Average Cost of Gas schedule in support of Exhibit C attached to the second petition for confidentiality, containing prices Atmos projects it will pay for purchase contracts.

In support of its petitions, Atmos argued that public disclosure of commodity costs, demand and transportation charges, and reservations fees on specifically identified pipelines, if made available to Atmos' competitors, including non-regulated gas marketers, would put Atmos to an unfair commercial disadvantage. Atmos further argued that public disclosure of the designated materials would harm Atmos's ability to negotiate favorable terms for gas supply contracts.

#### LEGAL STANDARD

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."<sup>2</sup> The exceptions to the free and open examination of public records should be strictly construed.<sup>3</sup> The party requesting that the materials be granted confidential protection has the burden of establishing that one of the exemptions is applicable.<sup>4</sup> KRS 61.878(1)(c) 1, provides an exception to the requirement for public disclosure of records that are "generally recognized as confidential and proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records."

#### DISCUSSION AND FINDINGS

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<sup>2</sup> KRS 61.872(1).

<sup>3</sup> KRS 61.878.

<sup>4</sup> 807 KAR 5:001, Section 13(2)(c).

Atmos 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.”

Having considered the petitions and the material at issue, the Commission finds that the information described above 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’ March 31, 2022 petitions for confidential treatment are 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 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



Chairman

Vice Chairman

Commissioner



ATTEST:



Executive Director

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