

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS ADJUSTMENT	)	CASE NO.
FILING OF NAVITAS KY NG, LLC	)	2021-00278

ORDER

On August 6, 2021, Navitas KY NG, LLC (Navitas KY) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for ten years for Navitas KY's response to Commission Staff's First Request for Information (Staff's First Request), Item 3.

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>1</sup> In support of its motion, Navitas KY argued for the application 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.

Navitas KY's response to Staff's First Request, Item 3, consisted of gas supply contracts Navitas KY executed with gas suppliers. Navitas KY argued that disclosure of gas supply contracts would provide sensitive pricing information which could put Navitas

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

KY at a competitive disadvantage when Navitas KY negotiates gas purchase contracts with any other entities.

Having considered the motion and the material at issue, the Commission finds that Navitas KY's motion is granted. Competitors could undercut Navitas KY's contracts with gas suppliers if it knew the terms of Navitas KY's contracts, specifically supplier identities and pricing. Suppliers could also use pricing information to disadvantage Navitas KY in future contract negotiations. The Commission has previously found that gas supplier contracts were entitled to confidential protection under KRS 61.878(1)(c)(1).<sup>2</sup> The gas supply contracts provided by Navitas KY in response to Staff's First Request, Item 3, are generally recognized as confidential or proprietary and would provide Navitas KY's competitors with an unfair advantage if disclosed; they therefore meet the criteria for confidential treatment and are 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. Navitas KY's motion 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 ten years 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).

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<sup>2</sup> Case No. 2017-00029, *Purchased Gas Adjustment Filing of Atmos Energy Corporation* (Ky. PSC June 30, 2017), Order.

4. Navitas KY 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, Navitas KY 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 Navitas KY is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

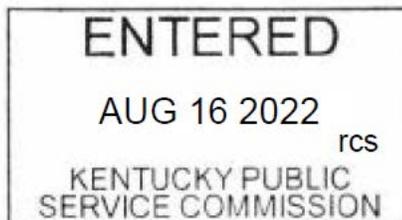
6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Navitas KY to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION

  
Chairman

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Vice Chairman

  
Commissioner



ATTEST:

  
Executive Director

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