

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY)
CORPORATION FOR AN ADJUSTMENT)
OF RATES AND TARIFF MODIFICATIONS)

CASE NO.
2013-00148

ORDER REGARDING REQUEST FOR CONFIDENTIAL TREATMENT

On June 3, 2013, Atmos Energy Corporation ("Atmos") filed a petition pursuant to 807 KAR 5:001, Section 13, and KRS 61.878 requesting that the Commission grant confidential treatment to certain information related to its responses to the initial data request dated May 6, 2013. Specifically, Atmos states that Item 1-47 of the initial request requires Atmos to:

Provide the following tax data for the most recent calendar year. . . .

(9) A copy of federal and state income tax returns for the most recent tax year, including supporting schedules;

Atmos states that this portion of its response contains proprietary information that would aid competitors of Atmos, and such proprietary information is subject to protection from disclosure pursuant to Kentucky law, KRS 61.878(1)(c). Atmos states that if disclosed, this information could cause substantial competitive harm to Atmos, and that the information in its state and federal tax returns would be difficult or impossible for someone to discover from other sources. Atmos states that this information is not generally disclosed to its non-management employees and that it is protected internally by the Company as proprietary information.

Atmos relies upon KRS 61.878(1)(k), which exempts from public disclosure "all public records or information the disclosure of which is prohibited by federal law or regulation." Federal law codified in 26 USC § 6103(a) prohibits state officials from publicly disclosing any federal income tax return or its contents, making the requested federal income tax return exempt.

Returns and return information shall be confidential, and except as authorized by this title . . . no officer or employee of any State . . . shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this sections

The term "return information" means a taxpayer's identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld. . . .

In addition, Atmos argues that its state income tax returns are also confidential and protected from disclosure by KRS 61.878(1)(l), which exempts from the Kentucky Open Records Act ". . . public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly."

KRS Chapter 131.190 – Information acquired in tax administration not to be divulged – Exceptions, states as follows:

1. (a) No present or former commissioner or employee of the Department of Revenue, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to

be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.

Atmos asserts that the information should be held confidential indefinitely, as the statutes do not allow for disclosure at any time. Having carefully considered the petition and the materials at issue, the Commission finds that:

1. The materials for which Atmos seeks confidential treatment meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c) and 807 KAR 5:001, Section 13.

2. The materials for which Atmos seeks confidential treatment should not be placed in the public record or made available for public inspection for an indefinite period of time due to the highly confidential and proprietary nature of the information requested to be held confidential, the disclosure of which could result in competitive injury.

IT IS THEREFORE ORDERED that:

1. Atmos's petition for confidential protection is hereby granted.

2. The materials for which Atmos seeks confidential treatment shall not be placed in the public record nor made available for public inspection for an indefinite period of time.

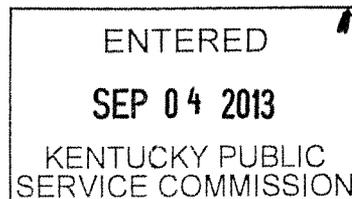
3. Use of the materials in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

4. Atmos shall inform the Commission if the materials in question become publicly available or no longer qualify for confidential treatment.

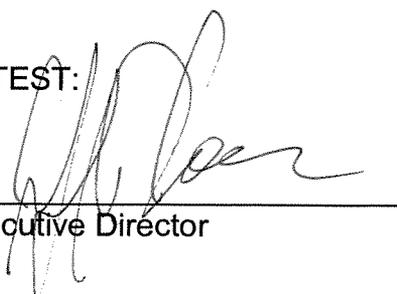
5. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order, the Commission shall notify Atmos in writing and direct Atmos to demonstrate within 20 days of its receipt of the notice that the materials still fall within the exclusions from disclosure 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 requested materials available for inspection for 20 days following an Order finding that the material no longer qualifies for confidential treatment in order to allow Atmos to seek a remedy afforded by law.

By the Commission



ATTEST:



Executive Director

Case No. 2013-00148

Honorable John M Dosker
General Counsel
Stand Energy Corporation
1077 Celestial Street
Building 3, Suite 110
Cincinnati, OHIO 45202-1629

Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KENTUCKY 40601

Mark R Hutchinson
Wilson, Hutchinson & Poteat
611 Frederica Street
Owensboro, KENTUCKY 42301

Eric Wilen
Project Manager-Rates & Regulatory Affairs
Atmos Energy Corporation
5420 LBJ Freeway, Suite 1629
Dallas, TEXAS 75420