

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY)
CORPORATION FOR AN ADJUSTMENT) CASE NO. 2013-00148
OF RATES AND TARIFF MODIFICATIONS)

ORDER REGARDING REQUEST FOR CONFIDENTIAL TREATMENT

On September 25, 2013, Atmos Energy Corporation (“Movant”) moved, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1) that certain materials filed with the Commission be afforded confidential treatment and not be placed in the public record subject to public inspection.

In support of its motion, Movant states that the information it is requesting to be held confidential is contained in its Responses to the September 11, 2013 Attorney General’s Second Set of Information Requests,¹ Items 2-08, 2-27, 2-35, 2-38, 2-40, 2-44, 2-67, 2-70, 2-82, and 2-83, and that the information sought is commercial information that if disclosed could cause substantial competitive harm to Movant, and that this information constitutes a trade secret under the two-prong test of KRS 365.880: (a) the economic value of the information is derived by not being readily ascertainable by other persons who might obtain economic value by its disclosure; and (b) the information is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Movant also states that certain information refers to specific

¹ Although the Petition states that confidential treatment is sought for Responses to Attorney General’s Second Set of Information Requests filed on Sept. 11, 2013, upon review, it is apparent that the Petition is for Movant’s Responses to Attorney General’s Supplemental Data Requests filed on Sept. 11, 2013.

employee compensation and public disclosure would invade the privacy rights of the individuals involved.

More particularly the information it is requesting to be held confidential is described as Item 2-08, which seeks internal documents, reviews and recommendations related to Automatic Meter Reading (“AMR”) equipment and details confidential financial analysis of the cost data, factors reviewed and cost/benefits of the acquisition of the FlexNet system. Item 2-27 relates to reports and documentation that Movant’s management relies upon and reviews in order to determine whether it is earning a reasonable rate of return (“ROR”) for Kentucky operations or to determine when it is necessary to file a rate case in Kentucky and contains projected Kentucky ROR information. Movant states that the information provides internal financial earnings benchmarks, analysis and other sensitive data and that this information would never be disclosed publically.

Items 2-35, 2-38, 2-40, 2-44, 2-67, and 2-70 relate to vendor contracts, which show the cost of the product and associated equipment and service, the rates charged by the vendor, the terms on which Movant engaged the vendor and the vendor performed, the terms and conditions of the contracted services and the methodologies used in evaluating the bids. Movant states that disclosing these details will allow Movant’s competitors and other potential vendors to see the steps involved in the bid and contracting process, giving these competitors and vendors an unfair commercial advantage, and that such information is generally recognized as confidential and proprietary information in the energy industry.

Item 2-44 relates to contracts for the Customer Service System ("CSS") and relates to contract negotiations and documents, forecasted and actual cost analyses, due diligence documents, and other highly sensitive matters. Item 2-55 refers to Human Resource and Board of Director presentations related to employee compensation and contain highly sensitive information about the company's financial condition, employee staffing, compensation levels, compensation benchmarks and other closely held information. Movant states that disclosure of this information would give competitors the ability to target employees with enhanced compensation or benefit offers. Movant also states that the information refers to specific employee compensation, which would invade the privacy rights of the individuals named.

Item 2-82 requests journal entries related to property sales. This information provides the number of, types of, and cost to Movant of the acquisition of assets and how those assets are booked and the internal accounting treatment. Item 2-83 refers to the capital budget, which includes project descriptions and associated project costs, and would provide competitors with actual and projected operating revenues, expenses, plant expansions, and other detailed operating information, which has not been made public, and that Movant takes all reasonable steps to prevent its public dissemination.

Having carefully considered the motion and the materials at issue, the Commission finds that:

1. The materials for which Movant seeks confidential treatment meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1), KRS 365.880, and 807 KAR 5:001, Section 13.

2. The materials for which Movant 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 proprietary nature of the information requested to be held confidential, the disclosure of which could result in competitive harm to Movant.

IT IS THEREFORE ORDERED that:

1. Movant's motion for confidential protection is hereby granted.

2. The materials for which Movant seeks confidential treatment shall neither 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 comply with 807 KAR 5:001, Section 13(9).

4. Movant 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 and the period during which the materials have been granted confidential treatment has not run, the Movant shall have 20 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If Movant 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 materials no longer qualify for confidential treatment in order to allow Movant to seek a remedy afforded by law.

By the Commission

ENTERED ⁰⁰
NOV 26 2013
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

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Executive Director

Case No. 2013-00148

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