

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

Application of Atmos Energy Corporation)	
for an Adjustment of Rates)	Case No. 2015-00343
and Tariff Modifications)	

PETITION FOR CONFIDENTIALITY
FOR RESPONSE TO ITEMS 1-34, 1-47, 1-56 and 1-59
OF THE COMMISSION'S
FIRST SET OF INFORMATION REQUEST

Atmos Energy Corporation (Atmos Energy), by counsel, petitions for an order granting confidential protection of certain responses to the initial data request dated October 30, 2015, pursuant to 807 KAR 5:001, Section 13 and KRS 61.878.

Item 34 of the initial request requires Atmos Energy to:

Provide all wage, compensation, and employee benefits studies, analyses, or surveys conducted since Atmos's last rate case or that are currently utilized by Atmos.

The Kentucky Open Records Act exempts from disclosure certain confidential or proprietary information. KRS 61.878(1)(c). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the information would permit an unfair commercial advantage to competitors of the party seeking confidentiality.

Information contained in a portion of this response, specifically Attachments 2 and 3 – “Pension Account Plan Disclosure Report” and “Pension Account Plan Report” - are the product of extensive internal Atmos analysis of employee benefits and compensation. The information sought in the data requests is commercial information that if disclosed could cause substantial competitive harm to Atmos Energy. These portions of Atmos

Energy's Response contain proprietary information that would aid competitors of Atmos Energy and such proprietary information is subject to protection from disclosure pursuant to Kentucky law. This information is not publicly available. It would be difficult or impossible for someone to discover this information from other sources. If this information were available to competitors in this form, they could use it to the competitive detriment of Atmos Energy. This information is not generally disclosed to non-management employees of Atmos Energy and is protected internally by the Company as proprietary information. The disclosure of this proprietary information would result in significant or irreparable competitive harm to Atmos Energy by providing its competitors with non-reciprocal competitive advantage. No public purpose is served by the disclosure of such information.

Similar information was afforded confidential protection in Case No. 2010-00036, *The Application of Kentucky American Water Company for an Adjustment of Rates*. Letter from Jeff Deoruen dated June 16, 2010.

Item 1-47 of the initial request requires Atmos Energy 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;

KRS 61.878(1)(k) 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 U.S.C.A. 5 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 section....

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, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense.

The effect of these two statutes is to preclude disclosure of the federal tax return.

Additionally, KRS 131.190(1) requires that all income tax information filed with the Kentucky Revenue Cabinet be treated in a confidential manner:

131.190 Information acquired in tax administration not to be divulged -- Exceptions.

(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.

Thus, the requested state income tax return is also confidential and protected from disclosure by KRS 61.878(1)(1), 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."

This information was determined to be confidential in Atmos Energy's prior rate application - Case No 2013-00148.

Information in Item 1-56, Attachment 2 relates to the gas supply agreement with Atmos Energy affiliate, Atmos Energy Marketing (AEM). As the Commission is well aware, Atmos must compete for both gas supply and gas transportation services in the deregulated world of natural gas procurement and transportation. Disclosure of the information sought to be protected in this Petition would allow Atmos' competitors to gain confidential information about Atmos' gas purchasing and transportation costs and strategies. This information would enable competitors to identify Atmos' low cost supplier and if the attached information contains terms more favorable than theirs, they could, and would, attempt to outbid or otherwise interfere with Atmos and its gas supplier. It would also enable those competitors to negotiate similar terms with other gas suppliers, thereby depriving Atmos of the commercial benefits it enjoys by negotiating the attached gas supply agreement.

Additionally, to the extent that Atmos chooses or is compelled, in the future, to purchase gas supply or transportation services from other suppliers or potential suppliers, disclosure of the information contained in the attached documents would reveal the prices and terms Atmos has agreed to pay for gas supply and transportation services. Suppliers with that information, who might otherwise offer a lower price, would have no incentive to offer any price lower than that currently being paid by Atmos.

Except for the parties to the RFP process and the New Supply Agreement, the information sought to be protected is not known outside Atmos and is not disseminated within Atmos except to those employees with a legitimate business need to know and act upon the information.

The Company's RFP represented that parties would keep the bid information confidential. This provision recognizes that the parties could be competitively damaged if the terms of their proposals were made publicly available to their competitors including specifically those unregulated competitors who would have no corresponding requirement to make a public disclosure of the terms of their gas supply agreements.

The information included in this request has previously been determined to be confidential by the Commission in Case No. 2013-00434, Order of March 19, 2014.

Item 59, Attachment 55 relates to the analysis of the economic value of special contracts with Atmos transportation customers. This question seeks customer identifiable information, such as contracts, and specific volumetric usage and plant facilities associated with the customer, cost of service and economic value of the service by Atmos Energy. All of this information is protected by the scope of confidentiality. The applicable statutes provide that "records confidentially disclosed to an agency or required by any 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" shall remain confidential unless otherwise ordered by a court of competent jurisdiction." KRS 81.878(1). The natural gas industry is very competitive. Atmos has active competitors, who could use this information to their advantage and to the direct disadvantage of Atmos. Atmos

would be at a competitive threat of loss of business due to the ability of its competitors to leverage the information to their advantage. The public disclosure of the customer identifiable information, terms negotiated with each customer, cost of bypass and return on Atmos' investment of each customer would permit an unfair advantage to those competitors. With the identity of the customer and the knowledge of the contract terms, competitors would have inside information to target these customers. For these reasons, the customer identifiable information and monetary terms in the contracts are exempt from public disclosure pursuant to KRS 61.878(c)(1). The Commission has previously ruled that this information is confidential in Case No. 2013-00148. The contract terms are also excluded from public disclosure by KRS 278.160(3).

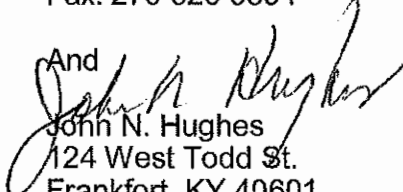
Atmos Energy requests that the information be held confidentially indefinitely. The statutes cited above do not allow for disclosure at any time. Given the competitive nature of the natural gas business and the efforts of non-regulated competitors to encroach upon traditional markets, it is imperative that regulated information remain protected and that the integrity of the tax filings remain secure.

For these reasons, Atmos Energy requests that the items identified in this petition be treated as confidential in their entirety. Should the Commission determine that some or all of the material is not to be given confidential protection, Atmos Energy requests a hearing prior to any public release of the information to preserve its rights to notice of the grounds for the denial and to preserve its right of appeal of the decision.

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Certification:

I certify that is a true and accurate copy of the documents to be filed in paper medium; that the electronic filing was transmitted to the Commission on December 7, 2015; that an original and one copy of the filing will be delivered to the Commission within two days; and that no party has been excused from participation by electronic means.

