

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

IN THE MATTER OF:

Application of Atmos Energy Corporation	)	
for an Adjustment of Rates	)	Case No. 2021-00214
and Tariff Modifications	)	

**PETITION FOR CONFIDENTIALITY  
FOR RESPONSE TO ITEMS 6-13 and 6-15  
OF THE COMMISSION'S  
SIXTH 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 December 17, 2021, pursuant to 807 KAR 5:001, Section 13 and KRS 61.878.

Item 6-13 requests a copy of the most recent available RRA Regulatory Focus - Major Rate Case Decisions published by S&P Global Market Intelligence. This publication is proprietary information subject to copyright laws protecting it from disclosure, which requires Atmos Energy to take reasonable steps to prevent public, unauthorized disclosure. The information was acquired by Atmos Ennergy on a proprietary basis and to the best of its knowledge is not publicly disclosed or available. The same information was determined to be confidential in Duke Energy's Application for Rate Adjustment, Case No. 2017-00321, Order of May 3, 2018 and Application of Big Rivers, Order of January 22, 2020, Case No. 2019-00365.

Item 1-15 request requires Atmos Energy to provide updated versions of Attachment 1 and Attachment 2 in Excel spreadsheet format with all formulas, columns, and rows unprotected and fully accessible for each of tax year ending in 2008 through 2021 to Commission Staff's Third Request for Information, Item 25 in Case No. 2018-00281,<sup>3</sup> including confidential Attachments 1 and 2 provided in response to that request. 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 tax information was determined to be confidential in Atmos Energy's prior rate application - Case No 2018-00281.

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.

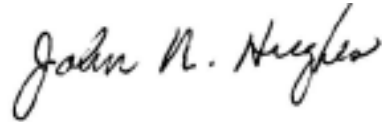
The information sought in the data requests is commercial information that if disclosed could cause substantial competitive harm to Atmos Energy. These portions of Atmos Energy's Response contain proprietary information that would aid competitors of Atmos Energy and such proprietary information is

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.

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 copy righted information and 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.

Submitted by:



John N. Hughes  
124 West Todd St.  
Frankfort, KY 40601  
502 227 7270  
[inhughes@johnnhughespsc.com](mailto:inhughes@johnnhughespsc.com)

And

Mark R. Hutchinson  
Wilson, Hutchinson & Littlepage  
611 Frederica St.  
Owensboro, KY 42303  
270 926 5011  
Fax: 270-926-9394  
[randy@whplawfirm.com](mailto:randy@whplawfirm.com)

Attorneys for Atmos Energy Corporation

Certification:

I certify that is a true and accurate copy of the original documents; that the electronic filing was transmitted to the Commission on January 6, 2022; and that no party has been excused from participation by electronic means.

