

**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 REHEARING FOR CONFIDENTIALITY  
TO PSC DR 1-55**

Atmos Energy Corporation (Atmos Energy), by counsel, petitions for rehearing of the Order dated October 1, 2021.

Item 1-55 of the initial data request states:

55. To the extent not already provided, provide all workpapers, calculations, and assumptions the utility used to develop its forecasted test period financial information in Excel spreadsheet format with all formulas, columns, and rows unprotected and fully accessible.

The Order of October 1 states:

To the extent that the subject material contains executive compensation information, the Commission finds that compensation for executive employees is included in base rate calculations and **public information required to be disclosed in regulatory filings**, and therefore, does not meet the standard confidentiality. Staff has reviewed the materials submitted and the executive compensation information is not entitled to confidential treatment and should not be exempted from public disclosure pursuant to KRS 61.878(1)(c) and 807 KAR 5:001, Section 13. (Emphasis added).

FR 16(8)(g) Schedule G-3 included in the response to DR 1-55 includes the names of executive employees and retirees and their compensation that are not included in public filings and are not disclosed in other public documents. A

revised version of that response with names removed is attached. Atmos Energy requests an order granting confidential protection of the original Schedule G-3, which includes the employees names and the filing of the redacted Schedule G-3. Because Atmos Energy requests confidential protection only for the named executive salary benefits not otherwise publicly disclosed, granting confidential protection to this limited information accords with KRS 61.878(1)(a). Similar non-public executive compensation information was held to be confidential until publicly disclosed. See Application of Kentucky Power Company, Case No. 2017-00179, August 23, 2017.

The Kentucky Open Records Act exempts from disclosure certain confidential or proprietary information.

**KRS 61.878 Certain public records exempted from inspection except on order of court --  
Restriction of state employees to inspect personnel files prohibited.**

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

**(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy; (Emphasis added)**

The information sought in the data request is personal information that if disclosed could cause unwarranted invasion of personal privacy to the affected employees. The information is based on each employees' service with the Company and is based on the specific terms of that employment. This portion of Atmos Energy's Response contain proprietary information not publicly available and the employees have an expectation of privacy of the information.

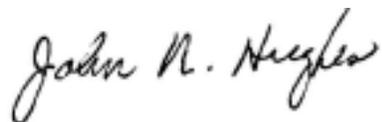
information. The Kentucky Court of Appeals has stated, “information such as . . . wage rate . . . [is] generally accepted by society as [a] detail in which an individual has at least some expectation of privacy.” The Kentucky Supreme Court has characterized “one’s income” as “intimate” information of a private nature. Disclosing the information would invade the privacy rights of the individuals.

It would be difficult or impossible for someone to discover this information from other sources. 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 employees’ compensation be maintained.

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 October 5, 2021; and that no party has been excused from participation by electronic means.

