

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ATMOS	)	
ENERGY CORPORATION FOR AN ORDER	)	CASE NO.
AUTHORIZING THE IMPLEMENTATION OF A	)	2023-00001
\$5,000,000,000 UNIVERSAL SHELF	)	
REGISTRATION	)	

ORDER

On November 24, 2023, 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 for an indefinite period for Exhibit B to its November 24, 2023 filing of dates of issuance, the price paid, the interest rate, the purchasers, all fees and expenses, including underwriting discounts or commission or other compensation and interest rate management agreements executed in conjunction with the issuance of the universal shelf registration as required by the Commission's March 9, 2023 final Order.<sup>1</sup>

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."<sup>2</sup> Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.<sup>3</sup> The party requesting that materials be treated confidentially has the burden of establishing

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<sup>1</sup> Order (Ky. PSC Mar. 9, 2024) at 7.

<sup>2</sup> KRS 61.872(1).

<sup>3</sup> See KRS 61.871.

that one of the exceptions is applicable.<sup>4</sup> Atmos sought application of KRS 61.878(1)(c)(1), which exempts records that are “[g]enerally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

The material at issue consists of documentation from lenders indicating transaction fees and interest rates related to the issuance of the universal shelf registration. Atmos argued that public disclosure of the information would unnecessarily provide interested parties and competitors with access to exclusive information regarding Atmos’s financial information, which could harm Atmos’s position in the marketplace.<sup>5</sup>

Having considered the motion and the material at issue, the Commission finds that Atmos’s motion should be denied. The Commission previously found that once a loan closes, rates and fees actually paid should be made public because they impact revenue requirement and resulting rates, the calculation of which should be transparent.<sup>6</sup> In addition, the rate and fee information is now over a year old, is stale, and would be unlikely to harm Atmos if disclosed because lender and borrower positions will likely have changed. Therefore, the designated material does not meet the criteria for confidential treatment and is not exempted from public disclosure pursuant to KRS 61.878(1)(c)(1)

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<sup>4</sup> 807 KAR 5:001, Section 13(2)(c).

<sup>5</sup> Motion for Confidential Treatment (filed Nov. 24, 2023) at 2-3.

<sup>6</sup> See Case No. 2019-00109, *Electronic Application of Citipower, LLC for (1) An Adjustment of Rates Pursuant to 807 KAR 5:076; (2) Approval for a Certificate of Public Convenience and Necessity to Purchase Pipeline and Other Related Assets; and (3) Approval of Financing* (Ky. PSC Aug. 14, 2019), Order at 4; See also Case No. 2018-00115, *Application of East Kentucky Power Cooperative, Inc. for Approval of the Authority to Issue Up to \$300,000,000 of Secured Private Placement Debt and/or Secured Tax Exempt Bonds and for the Use of Interest Rate Management Instruments* (Ky. PSC Feb. 23, 2023), Order at 2; Case No. 2022-00217, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for Issuance of Evidence of Indebtedness* (Ky. PSC Feb. 10, 2023), Order at 3.

and 807 KAR 5:001, Section 13. However personal identifying information such as account numbers should be redacted pursuant to 807 KAR 5:001, Section 4(10)(a).


IT IS THEREFORE ORDERED that:

1. Atmos's November 24, 2023 petition for confidential treatment is denied.
2. The designated material denied confidential treatment by this Order is not exempt from public disclosure and shall be placed in the public record and made available for public inspection.
3. If Atmos objects to the Commission's determination that the requested material not be granted confidential treatment, it must seek either rehearing pursuant to KRS 278.400 or judicial review of this Order pursuant to KRS 278.410. Failure to exercise either of these statutory rights will be deemed as agreement with the Commission's determination of which materials should be granted confidential treatment.
4. Within 30 days of the date of service of this Order, Atmos shall file a revised version of the designated material for which confidential treatment was denied, reflecting as unredacted the information that has been denied confidential treatment.
5. The designated material for which Atmos's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of service of this Order in order to allow Atmos to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Commissioner

  
\_\_\_\_\_  
Commissioner



ATTEST:

  
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