

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS ADJUSTMENT)	CASE NO.
FILING OF ATMOS ENERGY CORPORATION)	2023-00095

ORDER

On March 30, 2023, Atmos Energy Corporation (Atmos) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1), requesting that the Commission grant confidential treatment for an indefinite period for the following information contained in Atmos's Quarterly Gas Cost Adjustment (GCA) filing, specifically:

- a. Exhibit D, Page 5 of 6, which purportedly contains the actual price being paid by Atmos for natural gas to its suppliers.
- b. Exhibit C, Page 2 of 2, which purportedly contains prices projected to be paid by Atmos for purchase contracts.
- c. Invoices and monthly usage reports for each month of the reporting period.
- d. Purchases of sustainable natural gas from a renewable source during the reporting period identifying the supplier, cost, and amount.

In support of its petition, Atmos argued that the public disclosure of the documents could place Atmos at a competitive disadvantage. Atmos claimed that public disclosure would negatively impact Atmos's ability to negotiate advantageous terms for future purchase contracts for natural gas, increasing the rates paid by Atmos's ratepayers.

Further, Atmos contended that the information provides Atmos's competitors with the identity of lowest-cost suppliers and information that would allow them to attempt to

modify their bids to get more favorable agreements. Atmos requested that the material at issue remain confidential indefinitely.

LEGAL STANDARD

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.”¹ In support of its petition, Atmos argued for the application of KRS 61.878(1)(c)(1), which exempts from disclosure “[r]ecords confidentially disclosed to an agency or required by an 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.” Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

Having considered the petition and the material at issue, the Commission finds that the pricing and volume information from third-party natural gas suppliers is generally recognized as confidential or proprietary, because competitors could use the information to compete with Atmos for these suppliers’ business; it therefore meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

¹ KRS 61.872(1).

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

IT IS THEREFORE ORDERED that:

1. Atmos's petition for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for an indefinite period or until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).
4. Atmos shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Atmos shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Atmos is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.
6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Atmos to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner



ATTEST:



Executive Director

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