

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS ADJUSTMENT	)	CASE NO.
FILING OF NAVITAS KY NG, LLC	)	2024-00184

ORDER

On July 3, 2024, Navitas KY NG, LLC (Navitas) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for five years for supplier invoices filed concurrently with its Gas Cost Adjustment (GCA) filings.

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>1</sup> Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.<sup>2</sup> The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.<sup>3</sup>

In support of its motion, Navitas argued for the application of KRS 61.878(1)(c)(1), which provides an exception to the requirement for public disclosure for records that are “generally recognized as confidential or proprietary, which if openly disclosed would

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

<sup>2</sup> See KRS 61.871.

<sup>3</sup> 807 KAR 5:001, Section 13(2)(c).

permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

Navitas argued that if potential competitors or other suppliers enjoyed ongoing, unrestricted access to supplier invoices, Navitas’s ability to fairly negotiate terms with counterparties in the marketplace would be negatively impacted.

Having considered the motion and the material at issue, the Commission finds that the designated material should be granted confidential treatment. Competitors could use supplier pricing information to compete with Navitas for these suppliers’ business or Navitas could be disadvantaged compared to competitors because suppliers could use the data to unfairly negotiate with Navitas.<sup>4</sup> This information is generally recognized as confidential or proprietary, 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).

IT IS THEREFORE ORDERED that:

1. Navitas’s July 3, 2024 motion 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 five years 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).

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<sup>4</sup> See Case No. 2021-00142, *Electronic Purchased Gas Adjustment Filing of Atmos Energy Corporation* (Ky. PSC Dec. 13, 2022), Order at 2.

4. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Navias shall inform the Commission and file with the Commission an unredacted copy of the designated material.

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, Navitas 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 Navitas 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 Navitas to seek a remedy afforded by law.

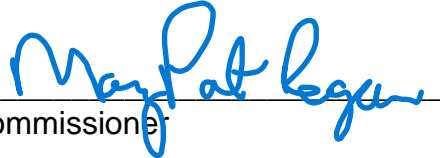
PUBLIC SERVICE COMMISSION

Chairman



Vice Chairman

Commissioner



ENTERED

SEP 10 2024

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KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



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