

ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman	√		
Krevda	√		
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**PETITION OF LNG INDY, LLC FOR A FINDING)
 THAT CERTAIN INFORMATION IN ITS ANNUAL)
 REPORT CONSTITUTES CONFIDENTIAL,)
 PROPRIETARY, COMPETITIVELY SENSITIVE)
 AND/OR TRADE SECRET INFORMATION AND)
 SHOULD BE PROTECTED FROM PUBLIC)
 DISCLOSURE PURSUANT TO 170 IAC 1-1.1-4,)
 IND. CODE § 8-1-2-29 AND IND. CODE § 5-14-3-4)**

CAUSE NO. 45712

APPROVED: JUN 28 2022

ORDER OF THE COMMISSION

Presiding Officers:

Sarah E. Freeman, Commissioner

Jennifer L. Schuster, Senior Administrative Law Judge

On April 29, 2022, LNG Indy, LLC d/b/a Kinetrex Energy (“Petitioner” or “Kinetrex”) filed a Petition for Finding of Confidentiality (“Petition”) in this Cause. In its Petition, Petitioner asserts that certain information (“Confidential Information”) contained in its 2021 Annual Report, which Petitioner intends to submit to the Indiana Utility Regulatory Commission (“Commission”), contains trade secrets as that term is defined under Ind. Code § 24-2-3-2. Information containing trade secrets is excepted from public disclosure under Ind. Code § 5-14-3-4.

Based upon the applicable law and evidence presented, the Commission finds:

1. Commission Jurisdiction. Under Ind. Code §§ 8-1-2-29 and 5-14-3-4, the Commission must comply with the Indiana Access to Public Records Act and is prohibited from disclosing certain confidential information. Kinetrex is a limited liability company organized and existing under Indiana law and is a “public utility” within the meaning of Ind. Code § 8-1-2-1 as well as an “energy utility” within the meaning of Ind. Code § 8-1-2.5-2. The Commission, through its Order in Cause No. 44277, declined to exercise full jurisdiction over Kinetrex and its sales of liquefied natural gas, except as stated in the Order, which included a finding of confidentiality for certain information. Accordingly, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. Commission Discussion and Findings. The submission of confidential information to the Commission is governed by 170 IAC 1-1.1-4, which requires the applicant to apply for a finding by the Commission that the information is confidential. The application must be accompanied by the sworn statement or testimony of a party that sets forth facts describing: (1) the nature of the confidential information; (2) the reasons why the information should be treated as confidential pursuant to Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3; and (3) the efforts the party has made to maintain the confidentiality of the information.

Petitioner asserts that information contained in its Annual Report for the year ended December 31, 2021 (“Annual Report”), submitted to the Commission in redacted form, contains trade secrets and, consequently, should be excepted from public access. As we found in Cause No. 44277, Petitioner competes “in a highly competitive market.” Petitioner also provides competitive non-utility services, such as gas marketing services. The Confidential Information includes Kinetrex’s cost of goods sold, operating model, sensitive information regarding the finances and investments of its parent company, and information about its key employees. In support of its Petition, Petitioner submitted the sworn Affidavit of Aaron D. Johnson, President and Chief Executive Officer of Kinetrex. In the Affidavit, Mr. Johnson states that the Confidential Information has actual or potential independent economic value for Petitioner, the disclosure of the Confidential Information could provide Petitioner’s competitors and suppliers with unfair advantages, and Petitioner has taken reasonable steps to protect the Confidential Information from disclosure.

On May 10, 2022, the Presiding Officers, having considered the Petition and accompanying Affidavit, found there was a sufficient basis for a determination that the Confidential Information should be held as confidential by the Commission on a preliminary basis. Petitioner subsequently filed the Confidential Information under seal with the Commission on May 12, 2022. The Presiding Officers issued a docket entry dated May 12, 2022, providing notice that the Commission would issue a Final Order unless a request for an evidentiary hearing was made by June 10, 2022. No such request was made.

Upon reviewing Mr. Johnson’s affidavit and the unredacted Annual Report, and in accordance with Ind. Code §§ 5-14-3-4 and 8-1-2-29, we find that the Confidential Information contains trade secrets and is excepted from public disclosure by the Commission.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The unredacted version of Petitioner’s Annual Report for the year ended December 31, 2021, filed under seal with the Commission, contains confidential trade secret information. As such, the Confidential Information is entitled to confidential treatment and shall be exempt from disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3.

2. This Order shall be effective on and after the date of its approval.

HUSTON, FREEMAN, KREVDA, AND ZIEGNER CONCUR:

APPROVED: JUN 28 2022

I hereby certify that the above is a true and correct copy of the Order as approved.

Dana Kosco
Secretary of the Commission