

From: Melnykovych, Andrew (PSC)
To: [REDACTED]
Subject: Your comments in case 2011-00088. Re: Use of Atmos Energy Logo By Unregulated Atmos Affiliates
Date: Wednesday, March 30, 2011 3:20:00 PM

Dear Mr. Dosker:

The Kentucky Public Service Commission has received your comments in the above-referenced matter in conjunction with case number 2011-00088. Your comments have been placed into the record for the Commission's consideration. Thank you for your interest in this matter.

Andrew Melnykovych

Director of Communications
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601
502-564-3940 x 208
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From: Dosker, John [mailto:[REDACTED]]
Sent: Monday, March 14, 2011 10:58 AM
To: Mitchell, Anita L (PSC)
Cc: Howard, Dennis (KYOAG); Ward, Mark
Subject: Use of Atmos Energy Logo By Unregulated Atmos Affiliates

Ms. Mitchell:

Atmos Energy Marketing, LLC's continued use of the Atmos Logo, without a disclaimer, in violation of KRS 278.2213, was discussed in Testimony by Stand Energy during the Investigation of Retail Natural Gas Competition. Atmos is attempting to cure this defect by filing an application (Case No. 2011-00088) for Approval of the following Disclaimer:

"[Company's affiliate] is not the same company as Atmos Energy Corporation. [Company's Affiliate] is not regulated by any state public utility regulatory agency, including the Kentucky Public Service Commission. You do not have to buy the products or services of [Company's affiliate] in order to continue to receive quality regulated services from Atmos Energy Corporation."

That disclaimer, according to the application as proposed, will appear in CAPITAL LETTERS but will only be used "ON THE FIRST PAGE OR AT THE FIRST POINT WHERE THE COMPANY'S TRADEMARK, LOGO OR BRAND APPEARS." Although such a change would be an improvement over the current lack on any disclaimer, I don't believe the Atmos application satisfies Kentucky law set forth by the legislature at KRS 278.2213 (13):

(13) The utility's name, trademark, brand, or logo shall not be used by a nonregulated affiliate in any type of visual or audio media without a disclaimer. The commission shall develop specifications for the disclaimer. The disclaimer shall be approved by the commission prior to use in any advertisement by the utility's affiliate.

Nowhere does the statutory prohibition against use of the Utility Logo by unregulated subsidiaries require a disclaimer only for the first point where it appears! The Kentucky statute says the logo

“shall not be used” except with a disclaimer. Therefore, each use of the Logo, without the required disclaimer, would arguably be a separate violation of the statute.

Please forward our concerns to those Staff members working on the Atmos Application.

Intervention by Stand Energy is not necessary given the uncontroverted factual record established in the prior proceeding and the fact that the Kentucky Utility Code of Conduct statute speaks for itself.

Thank You.

John Dosker

John M. Dosker*

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* Licensed Only in Kentucky

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