

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY	)	CASE NO.
CORPORATION FOR AN ADJUSTMENT OF	)	2013 -00148
RATES AND TARIFF MODIFICATIONS	)	

O R D E R

On May 13, 2013, Atmos Energy Corporation ("Atmos Energy") filed an application for an adjustment of rates and tariff modifications, effective June 13, 2013. The application contained deficiencies and was rejected for filing, pursuant to 807 KAR 5:001, Section 4(3), Section 16(1)(b)4, Section 16(4)(a), Section 16(4)(e) and Section 16(4)(g), by letter dated May 28, 2013.

On June 3, 2013, Atmos Energy filed a response to the letter and requested a deviation for each deficiency as follows:

1. 807 KAR 5:001, Section 16(1)(b)4 requires the name, address, telephone number, fax number, and e-mail address of submitting party or attorney.

Atmos Energy's response requested a deviation from the requirement to furnish a fax number based on the fact that the responding attorney did not have a fax number, and also because this is an electronic case and Atmos Energy has certified that it is capable of filing and receiving documents electronically, which it argues, eliminates the need for fax communication. In reviewing the response, however, a fax number was provided for one of the three submitting attorneys which cures this deficiency and eliminates the need for a deviation.

2. 807 KAR 5:001, Section 16(1)(b)4 requires new or revised tariff sheets, if applicable, in a format that complies with 807 KAR 5:011 with an effective date not less than thirty (30) days from the date the application is filed. Atmos Energy is proposing two new tariff riders, the Margin Loss Rider and the System Development Rider (original sheets 42, 43, and 44). As they were not designated as new with the letter "N" as prescribed they did not comply with the regulation.

Atmos Energy's response is that although the proposed tariffs did not have the "N" designation, they are included in the "Proposed" tariff section of the application, indicative of their addition to current tariffs and that "[o]bviously, the staff was able to determine that the tariffs are new based on the information provided in the application." In its response, Atmos Energy includes a revised tariff with the appropriate designation, which cures this deficiency and eliminates the need for a deviation.

3. 807 KAR 5:001, Section 16(4)(a) requires that the notice include the present rates and proposed rates for each customer class to which the proposed rates will apply. In the notice (Volume 3 of the application), both the T-3 and T-4 tariffs contain incorrect current rates, while the G-2 tariff contains incorrect proposed rates.

Atmos Energy's response is that the notice "correctly includes the proposed rates and the correct percentage increases for the T-3 and T-4 tariffs . . . any one reviewing the application to determine the monetary impact of the proposed increases for those two customer classes would have adequate information to do so." Atmos Energy's response includes corrected copies of the tariffs. Atmos Energy argues that this error should not be considered material to the review of the application, that the cost of republishing the notice to correct this error is estimated to be \$50,000, and that

this expenditure is unjustified given the nature of the error. Atmos Energy requests a deviation from this requirement pursuant to 807 KAR 5:001(21). With regard to the proposed G-2 rates published in error, Atmos states that only 12 customers are served pursuant to this tariff and that it proposes to mail a corrected notice to each of those customers in lieu of publication.

4. 807 KAR 5:001, Section (4)(e) requires that the notice include a statement that a corporation, association, or person may, within thirty (30) days after the initial publication or mailing of notice of the proposed rate changes, submit a written request to intervene to the Public Service Commission . . . . (emphasis added). Atmos Energy's notice referred to the "publication or mailing of notice" but did not specify the "initial" publication or mailing.

Atmos Energy's response is that the regulation requires certain "statements" specifying the conditions for intervention but does not require the "verbatim replication of the language in the regulation." Atmos Energy argues that all of the substantive language in the regulation was included except for one word. It acknowledges that the word "initial" is not included prior to "publication" in the notice as required and argues that this omission does not limit anyone's ability to intervene and is not material to the intervention process. Atmos Energy requests a deviation from this requirement, stating that the cost of republishing the notice is unjustified given the nature of the error.

807 KAR 5:001, Section 16(3)(b)3 provides the method of notice that Atmos Energy chose to use in this matter, which is to "publish notice once a week for three (3) consecutive weeks in a prominent manner in a newspaper of general circulation in the utility's service area, the first publication to be made by the date the application is filed."

As the regulation requires that a motion to intervene be made within thirty (30) days of the initial publication, there are 7 to 14 days between the initial publication and the second or third publication. While Atmos Energy argues that this error in its notice does not limit anyone's ability to intervene, it could limit the amount of time to file for intervention by as much as 14 of the 30 days allowed. Although the Commission is concerned about this omission, it finds that a deviation should be granted and that the thirty (30) day period for intervention should be extended.

5. 807 KAR 5:001, Section 16(4)(g) requires that the utility's notice reference its website as a place that the public can access the application and other documents regarding the application filed with the Commission. Atmos states that it did not include its website address in its notice, but did include the Commission's website, which is required by 807 KAR 5:001, Section 16(4)(h). Atmos states that the public could access the information regardless of its omission, and that "the effect of the omission is the lack of a redundant source of information." While it may be accurate that the inclusion of the Commission's website in the notice would provide the public with a means to obtain access to the application and information regarding the case, Atmos's position appears to be that compliance with one requirement justifies its noncompliance with another requirement. Atmos does not claim that it does not maintain a website, but asks for a deviation from this requirement.

With customers increasingly relying on the Internet to access all information, it is important that Atmos Energy's application and other documents it has filed with the Commission be made available on its website. The Commission finds that a deviation from the filing requirements in the notice should be granted but that Atmos Energy's

application and other documents it has filed with the Commission should be made available on its website. In its overall response to the Commission deficiency letter, Atmos Energy argues that its failures to comply with the requirements of Commission regulations should be excused and deviations granted because the specific requirements are impossible, unnecessary because the information is intuitive, unimportant or redundant. In its response Atmos Energy has corrected the first two deficiencies listed above and proposed to cure the third with respect to the G-2 customers by mailing a corrected notice, while arguing that requiring it to republish the notice for the T-3 and T-4 incorrect current rates and for the omission in intervention language would create an unjustified expenditure given the nature of the error. Atmos Energy's failure to provide a reference to its website in the notice may arguably be an insufficient reason to continue to find its filing deficient, but the increasing reliance of customers on utility websites indicates the reasonableness of providing information concerning access to the electronic documents on Atmos Energy's website.

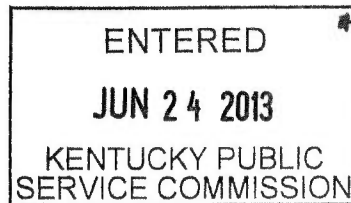
IT IS THEREFORE ORDERED that:

1. The filing deficiency to the requirements of 807 KAR 5:001, Section 4(3) has been cured.
2. The filing deficiency to the requirements of 807 KAR 5:001, Section 16(1)(b)4 has been cured.
3. The filing deficiency to the requirements of 807 KAR 5:001, Section 16(4)(a) has been cured regarding the G-2 tariff and deviations regarding the T-3 and T-4 tariffs shall be granted.

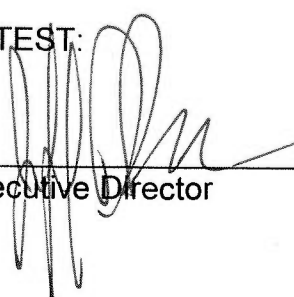
4. Atmos Energy's request for a deviation from the requirements of 807 KAR 5:001, Section 16(4)(g) shall be granted but the 30-day intervention period shall begin once the application has been accepted for filing.

5. Atmos Energy shall be granted a deviation to the filing requirement of 807 KAR 5:001, Section 16(4)(g) regarding listing its website address in its public notice; however, Atmos shall post its application and other documents it has filed with the Commission on its website, and the deficiency shall remain until the Commission has been provided proof that this posting has occurred.

By the Commission



ATTEST:

  
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Executive Director

Case No. 2013-00148

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