

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY)	
CORPORATION FOR AN ORDER AUTHORIZING)	CASE NO.
THE IMPLEMENTATION OF \$4,000,000,000)	2019-00421
UNIVERSAL SHELF REGISTRATION)	

ORDER

On November 21, 2019, Atmos Energy Corporation (Atmos) submitted its application seeking Commission approval to implement a \$4,000,000,000 universal shelf registration for senior debt and equity securities. This proposed universal shelf registration will not include any unused universal shelf approved by the Commission in Case No. 2018-00280.¹ Atmos states that three years is the current term of a Securities and Exchange Commission (SEC) shelf filing. The universal shelf registration will allow Atmos to offer, from time to time, senior debt securities and/or shares of its common stock, without par value, at prices and terms to be determined at the time of sale. The proposed debt securities and common stock may be issued in one or more series. According to Atmos, the universal shelf registration will provide it with greater flexibility in its financing options.

Atmos is a Virginia and Texas corporation and is duly qualified under the laws of Kentucky to carry on its business in the Commonwealth of Kentucky. Atmos serves over three million natural gas distribution customers in over 1,400 communities in eight states.

¹ Case No. 2018-00280, *Application of Atmos Energy Corporation for an Order Authorizing the Implementation of a \$3,000,000,000 Universal Shelf Registration* (Ky. PSC Sep. 9, 2018).

Its Kentucky/Mid-States division, one of six operating divisions, provides natural gas service in Kentucky, Tennessee, and Virginia. Atmos's Kentucky unit serves approximately 176,894 customers in central and western Kentucky.²

Atmos states in its application that the net proceeds from the universal shelf registration may be expended for one or more of the following purposes: (1) for the refunding of debt as market conditions permit; (2) for the purchase, acquisition and/or construction of additional properties and facilities; (3) for improvements to existing facilities; and (4) for general corporate purposes.

Atmos indicated that it cannot currently state exactly what mix of debt financing and equity securities will be utilized, but that its goal is to continue to maintain its historic debt-to-capitalization ratio and allow the company the flexibility to utilize the most favorable financing options available. Exhibit A of the application reflects that, as of June 30, 2019, the value of Atmos shareholders' equity and long-term debt was \$5,750,222,000 and \$3,529,452,000, respectively.³ Atmos does not plan to implement the universal shelf registration in a manner that would materially impact its target range. It believes the use of the proposed universal shelf registration will allow it to utilize the most favorable financing option available at a particular time.

Atmos further requests that the Commission terminate the remaining universal shelf registration authority approved in Case No. 2018-00280 upon the registration of the universal shelf registration that is the subject of the current application.

² *Annual Report of Atmos Energy Corporation to the Kentucky Public Service Commission for the Year Ended December 31, 2018 at 5.*

³ Application, Exhibit A at 5.

Atmos also seeks authority to modify its universal shelf registration filings with the Commission. Historically, Atmos issued stock in large "follow-on" offerings and filed the required reports with the Commission within ten days. Atmos states that they have recently begun issuing stock as it did in Case Nos. 2017-00037⁴ and 2019-00363⁵ pursuant to a program known as "at the market" (ATM) in which shares are issued in increments smaller than those of large follow-on offerings. Atmos notes ATMs can be issued more frequently in smaller share increments, which allows Atmos the ability to maximize the price it receives for the stock versus having to accept a discounted price in the larger follow-on offerings.

Atmos states that the information concerning ATM issuances, including the price paid, is included in Atmos's quarterly SEC 10-Q (10-Q) filings, which normally occur outside the previously Commission Ordered ten-day window for reporting a stock issuance. Atmos states that it prefers not to publicly disclose the price it receives for the stock in the small issuances between the 10-Q filings. It is concerned that if the stock issuance prices become public knowledge prior to its subsequent 10-Q filing, the stock price can become vulnerable to manipulations.⁶ Therefore, Atmos requests to file within ten days of filing their quarterly 10-Q information concerning the issuance of these smaller offerings. Atmos notes that if the Commission denies this motion, Atmos would be required to file a motion for confidentiality in its filings with the Commission until such time

⁴ Case No. 2017-00037, *Atmos Energy Corporation Motion to Modify Commission's Order of December 16, 2015 In Case No. 2015-00346* (Ky. PSC Feb. 8, 2017).

⁵ Case No. 2019-00363, *Atmos Energy Corporation Motion to Modify Commission's Order of September 19, 2018 In Case No. 2018-00280* (Ky. PSC Oct. 15, 2019).

⁶ Application at 5.

that the 10-Q filing is made with the SEC, and this would add additional filing burdens on its staff and the Commission's Staff.

Having considered the evidence of record and being otherwise sufficiently advised, the Commission finds that the approval of the \$4,000,000,000 universal shelf registration and the associated creation and issuance of related securities is for lawful objects within the corporate purposes of Atmos, is necessary and appropriate for, and consistent with, the proper performance by the utility of its service to the public and will not impair its ability to perform that service and is reasonably necessary and appropriate for such purposes. Therefore, the universal shelf registration proposed by Atmos should be approved.

Upon the issuance of these securities issued under the ATM program, Atmos shall file with the Commission a statement setting forth the date or dates of issuance, the price paid, the interest rate, the purchasers, and all fees and expenses, including underwriting discounts or commission or other compensation, within ten days following the date each such stock issuance was publicly disclosed in Atmos's 10-Q report filed with the SEC. Atmos should notify the Commission of the interest rate alternative selected for the issue. It should explain how the selected alternative represents the most reasonable interest rate available at the time of issuance. Atmos should also file copies of any interest rate management agreements executed in conjunction with the issuance.

The request by Atmos regarding the termination of the universal shelf registration authority that was approved by the Commission in Case No. 2018-00280 should be granted.

IT IS THEREFORE ORDERED that:

1. Atmos is authorized to implement a \$4,000,000,000 universal shelf registration for equity and debt financing, subject to the provisions and terms contained within its application, superseding the previous universal shelf authority granted in Case No. 2018-00280.

2. The proceeds from the transaction authorized herein shall be used only for the lawful purposes set out in the application.

3. Atmos shall, within ten days after filing their 10-Q filing with the SEC, Atmos shall file the information with the Commission, including information regarding the issuance of the securities referenced herein, a statement setting forth the date or dates of issuance, the price paid, the interest rate if any, the purchasers, and all fees and expenses, including underwriting discounts or commission or other compensation, involved in the issuance. In addition, if debt securities were issued, Atmos shall include an explanation as to how the selected interest rate alternative represents the most reasonable interest rate available at the time of issuance, and copies of any executed interest rate management agreements.

4. Any documents filed pursuant to ordering paragraph 3 of this Order shall reference the number of this case and shall be retained in the post-case correspondence file.

5. The remaining universal shelf registration authority granted to Atmos in Case No. 2018-00280 shall be terminated with the registration of the universal shelf registration that has been approved in this case.

6. This case is closed and removed from the Commission's Docket.

Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By The Commission

ENTERED
DEC 18 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director
for General R. P. Mason

Case No. 2019-00421

*Erikka Hise
Atmos Energy Corporation
3275 Highland Pointe Drive
Owensboro, KY 42303

*Honorable John N Hughes
Attorney at Law
124 West Todd Street
Frankfort, KENTUCKY 40601

*Mark A Martin
Atmos Energy Corporation
3275 Highland Pointe Drive
Owensboro, KY 42303

*Atmos Energy Corporation
3275 Highland Pointe Drive
Owensboro, KY 42303

*Mark R Hutchinson
Wilson, Hutchinson & Littlepage
611 Frederica Street
Owensboro, KENTUCKY 42301