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OVERNIGHT DELIVERY

May 2, 2012

Jeff R. Devouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
PO Box 615
Frankfort, Kentucky 40602

RE: CASE NO. 2012-00066
Atmos Energy Corporation

RECEIVED

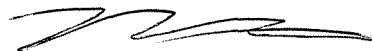
MAY 03 2012

**PUBLIC SERVICE
COMMISSION**

Dear Mr. Devouen:

I am enclosing herewith, an original, plus seven (7) copies of Atmos Energy Corporation's Responses to the Kentucky Public Service Commission's 2nd Data Request for filing in your office. Thank you.

Very truly yours,



Mark R. Hutchinson

**Atmos Energy Corporation
Kentucky**

Case No. 2012-00066

**RESPONSES TO
COMMISSION STAFF'S SECOND
DATA REQUESTS
DATED APRIL 19, 2012**

VERIFICATION

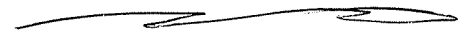
I, Mark A. Martin, being duly sworn under oath, state that I am Vice President of Rates and Regulatory Affairs for Atmos Energy Corporation, Kentucky/Midstates Division, and that the statements contained in the following Responses are true and accurate to the best of my knowledge, information and belief formed after a reasonable inquiry.



Mark A. Martin

CERTIFICATE OF SERVICE

I hereby certify that on the 2 day of May, 2012, the original of the Company's attached Responses, together with seven (7) copies were filed with the Kentucky Public Service Commission, 211 Sower Blvd, P.O. Box 615, Frankfort, Kentucky 40206 and a copy was also served on Dennis Howard, Office of the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.



Mark R. Hutchinson

Atmos Energy Corporation
KSPC 2nd Data Request Dated April 19, 2012
Case No. 2012-00066
Question No. 1
Witness: Mark A. Martin

REQUEST:

Refer to the response to Item 1.c. of Commission Staff's First Information Request ("Staff Request One"), specifically, the fourth sentence in the first paragraph, which reads: "The company believes that all customers will share in the benefits of spurring industrial development and job creation and as a result should not be considered as being adversely affected by the MLR and SDR riders." Item 1.c. referenced Finding No. 8 in the Commission's Final Order in Administrative Case. No. 327,¹ which reads: "During rate proceedings, utilities with active EDR contracts should demonstrate through detailed cost-of-service analysis that nonparticipating ratepayers are not adversely affected by these EDR customers."

- a. Explain whether, based on the fourth sentence as referenced above, it is Atmos's contention that it expects to prepare cost-of-service analysis that will be able to incorporate the effects of the industrial development and job creation its proposed economic development rate ("EDR") tariff is intended to foster.
- b. Explain whether Atmos believes that the language of Finding No. 8 reflects the Commission's intent that the cost-of-service analysis referenced therein was to include the effects of the utility-assisted industrial development and job creation.

RESPONSE:

- a. Atmos acknowledges the Commission's mandate in Finding No. 8 that during rate proceedings, the Company will be required to show, through a detailed cost of service analysis, the effect an active EDR tariff has on non-participating ratepayers. The Company did not intend for the statement quoted in this request to imply otherwise.
- b. Yes. See response to Data Request No. 1 (a) above.

Atmos Energy Corporation
KSPC 2nd Data Request Dated April 19, 2012
Case No. 2012-00066
Question No. 2
Witness: Mark A. Martin

REQUEST:

Refer to the response to Item 1.c. of Staff Request One, specifically, the second paragraph, which compares the proposed Margin Loss Rider (“MLR”) and System Development Rider (“SDR”) to the gas distribution utilities’ pipe replacement programs. After stating that “(t)he Company should be allowed to recover its costs through the MLR and SDR as opposed to a general rate adjustment proceeding” the paragraph concludes with “(f)or programs such as these, the Commission should allow a utility to recover its costs on a more current basis.”

- a. Explain whether Atmos is aware that all Commission-approved pipe replacement programs have been approved in “general rate adjustment proceedings.”
- b. Explain whether Atmos is aware that the proposed MLR and SDR tariffs meet the statutory definition of rate in KRS 278.010.
- c. Explain whether Atmos is aware that it has been the practice of the Commission to provide initial authorization of a rate that would increase customers’ bills only within a general rate case, except for rates that are voluntary.

RESPONSE:

- (a) Atmos is aware that pipe replacement programs have historically been initiated and approved within a general rate adjustment proceeding. Atmos was not aware that there had been no exceptions to that practice. The Commission is urged, however, to reconsider this policy when circumstances warrant – such as where an important public purpose can be advanced. The witness understands that recent pronouncements of the Kentucky Supreme Court (Kentucky Public Service Commission v. Commonwealth of Kentucky, ex rel., 324 S.W. 3rd 373 (KY. 2010) and Public Service Commission of Kentucky v. Commonwealth of Kentucky, ex rel., 320 S.W. 3rd 660 (KY 2010)) have made it clear that the Commission has the legal authority to do so, if, in the exercise of its discretion, it elects to do so. The Company believes there are important considerations which should favor a change in the Commission’s policy when considering EDR tariffs.

Now, perhaps more than ever, industrial development and job creation are vitally important to the citizens of this Commonwealth, including Atmos’ ratepayers. The competition among the states for new jobs is intense. Utilities should be encouraged to take prompt affirmative action to provide job creation initiatives, including EDRs. Compelling a utility to forego initiating an EDR tariff until its next general rate case serves to either potentially delay the implementation of a needed EDR tariff or to encourage the filing of a general rate case earlier than might otherwise be required.

Under Admin. Order 327, although a utility may have a filed EDR tariff, it can be implemented only through special contracts which must be filed with, and approved by, the Commission. As such the Commission continues to have ample opportunity to

Atmos Energy Corporation
KSPC 2nd Data Request Dated April 19, 2012
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review each particular proposed application of an EDR to determine the “reasonableness” of the resulting rate.

- (b) Atmos is aware that the proposed MLR and SDR tariffs appear to meet the statutory definition of a rate KRS 278.010. However, the Company respectfully submits that this does not prohibit the Commission from considering certain tariffs outside a general rate case. The Company believes that the Commission has the authority to consider specific rate issues (such as an EDR) outside a general rate case.
- (c) The Company is aware of the Commission’s practice to provide initial authorization of a rate only within a general rate case. The Commission, of course, has complete authority to continue that practice. The Company is simply requesting the Commission to reconsider that policy when tariffs dealing with socially important issues, such as job creation, are involved. As the Supreme Court said in *Kentucky Public Service Commission v. Commonwealth of Kentucky, ex rel*, 324 S.W. 3rd 373, Footnote 23 (KY. 2010):

“To the extent that the PSC has established its own policy against ‘single issue rate making’, as suggested by the Attorney General’s brief, it appears that the PSC would have discretion whether to retain or discard such a policy or determine whether it has been violated under the facts of a particular case given its plenary rate making authority circumscribed primarily by its duty to assure that rates are ‘fair, just and reasonable’ and the lack of clear statutory prohibition against ‘single issue rate making’.”

Atmos Energy Corporation
KSPC 2nd Data Request Dated April 19, 2012
Case No. 2012-00066
Question No. 3
Witness: Mark A. Martin

REQUEST:

Refer to the response to Item 5 of the Staff Request One.

- a. Confirm that the case referenced therein, in which an MLR tariff was approved for Atmos, was a general rate case.
- b. Confirm that the Commission's approval of an MLR tariff for Atmos was the result of a unanimous settlement agreement under which lost revenues would be shared equally by ratepayers and shareholders.
- c. The last sentence of the response states that, as an alternative to the proposed MLR and SDR, "(t)he company would be amendable to a rate stabilization mechanism." Provide a brief description of what the response refers to as a "rate stabilization mechanism."

RESPONSE:

- a. Yes, Case No. 99-070 was a general rate case.
- b. The Company's prior MLR tariff was the result of a unanimous settlement agreement in which lost revenues would be shared equally by ratepayers and shareholders. While the Company's current proposal is for the MLR to be 100% ratepayer funded, the Company would be amenable to a 50/50 sharing.
- c. The Company has long been an advocate of some form of rate stabilization mechanism. Such a mechanism would require annual reviews of the books and records and rates would be adjusted upward or downward depending on the prior year's results. The Company has forms of rate stabilization mechanisms in Louisiana, Mississippi, Texas, and most recently in Georgia. The Company's initial filing in Georgia resulted in a decrease in rates which shows that a properly designed mechanism would not always result in an increase in rates. With a rate stabilization mechanism in place in Kentucky, the Company would not need its proposed MLR and SDR riders.