COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY CORPORATION FOR AN ORDER APPROVING ECONOMIC DEVELOPMENT RIDERS	) CASE NO. 2012-00066

ORDER

On February 28, 2012, Atmos Energy Corporation ("Atmos") submitted an application requesting authority to establish an Economic Development Rider ("EDR") pursuant to the Commission's Order in Administrative Case No. 327 ("Admin. 327").[1] Atmos also proposed to establish a Margin Loss Rider ("MLR") to recover margins lost due to: 1) The EDR; 2) Its Alternative Fuel Flex Provision tariff; or 3) Negotiated rates with bypass candidates. Its application included an additional request to implement a System Development Rider ("SDR") to recover any investment related to economic development initiatives for overall system improvement and/or reliability and that cannot be directly assigned to a customer or group of customers. Atmos states that the SDR is intended to encourage industrial development, infrastructure investment, and job growth within its service area. The Attorney General, by and through his Office of Rate Intervention ("AG"), was granted intervention in this proceeding on March 28, 2012. Atmos responded to two Commission Staff Requests for Information. On June 21, 2012, the Commission issued an Order stating that if no comments or requests for

[1] Administrative Case No. 327, An Investigation Into the Implementation of Economic Development Rates by Electric and Gas Utilities (Ky. PSC Sept. 24, 1990).

information or for a public hearing were received from any party by July 11, 2012, then this matter would be submitted to the Commission for its decision on the record. No such comments or requests having been received, this case is submitted for decision.

Proposed EDR

Atmos's proposed EDR tariff, as confirmed through Commission Staff's Requests for Information, conforms to the requirements of Admin. 327 as listed below.

- Rate discount and related provisions, jobs and capital investment involved, customer-specific fixed costs, minimum bill, estimated load and load factor, and length of contract to be specified in contract.

The proposed tariff requires that qualifying new customers with a load of 9,000 Mcf/year or existing customers with an increase in load of 4,500 Mcf/year must enter into a Special Contract addressing jobs and capital investment involved, customer-specific fixed costs, minimum bill, estimated load and load factor, length of contract, and provides for the following standard discount terms:

Contract Year	Tariff Margin Discounted by:
1	25%
2	25%
3	25%
4	25%
After 4th year	0%

Each special contract will contain a four year maximum discount period, with the contract term extending twice the length of the discount period. The discount will apply to the qualifying customer's otherwise applicable rate schedule. The full Gas Cost Adjustment ("GCA") Rider will be included in the sales rate billed to the customer; the discount will be applied to the base rate only.

- Adequate capacity with a reserve margin for system reliability to be demonstrated in contract.

Atmos states that it conducts annual forecasting and peak day analysis to insure its capacity's sufficiency for firm obligations, that it researches and plans for future growth opportunities, and that it pledges its commitment to be in compliance with this requirement.

- Demonstration that discounted rate exceeds marginal cost recovery through current marginal cost-of-service study with each contract.

Atmos states that any special contract will be submitted for Commission approval along with a detailed cost-of-service study to compare expected incremental revenue, number of new jobs, and/or new capital investment.

- Annual report showing revenues received from each EDR customer and marginal cost for that customer.

This would be required by any Order of the Commission approving an EDR. The required form of the EDR Annual Report is set out in the Appendix to the final Order in Admin. 327, and is reproduced in the Appendix to this Order.

- Demonstrate during rate proceedings through cost-of-service analysis that nonparticipating customers are not adversely affected by EDR.

Atmos's proposal partially complies with this requirement. It intends to file a detailed cost-benefit analysis when it submits a special contract for Commission approval.

However, Atmos believes EDR matters should not necessarily be tied to a general rate proceeding. It contends that it should be permitted recovery of costs, based on its cost-benefit analysis, through the proposed MLR or SDR immediately upon approval of an EDR contract.

- Recovery of customer-specific fixed costs from EDR customer over the term of the contract.

Atmos states that it agrees that all customer-specific fixed costs should be borne by the individual customer and pledges its commitment to be in compliance with this requirement.

- Load parameters for new customers to exceed a minimum base level and for existing customers to exceed an incremental usage level above a normalized base load.

Atmos's proposed EDR tariff complies with this requirement as discussed above.

- Justification of load parameters.

The proposed minimum 9,000 Mcf for new load is consistent with Atmos's tariff requirement for transportation service. It states its belief that a significant investment would be needed for an existing customer to qualify for an EDR discount and that a 50 percent investment is significant; therefore, it used 4,500 Mcf for the proposed incremental load requirement.

- Demonstrate financial hardship on the part of existing customers to be served pursuant to EDR contracts.

Atmos states that, at a minimum, it would expect an existing customer to provide an affidavit stating that without a rate discount, its operations would cease or be severely restricted.

- Term of EDR contract to be twice the length of the discount period, with the discount period not to exceed five years and with rates charged to the customer after the discount period to be identical to those contained in the standard rate schedule for the customer class.

Atmos's proposed EDR tariff complies with this requirement as discussed above.

- Detailed cost-benefit analysis for gas main extensions, comparing new jobs, capital investment, and expected revenue stream from the new or existing customer to the total costs incurred by the utility by offering the discount or waiver for gas main extension.

Atmos states that it will provide all supporting documentation related to proposed discounted or waived gas main extensions when it files for Commission approval of a contract involving such extensions.

- Gas main extensions must require and justify a specific term for the customer to remain on gas service.

Atmos states that with a proposed EDR contract term of twice the discount period it will be in compliance with this requirement.

<u>Proposed MLR and SDR</u>

Atmos is also proposing to establish an MLR to recover margins lost due to the proposed EDR, its Alternative Fuel Flex Provision which has been in Atmos's tariff for several years, or negotiated rates with pipeline bypass candidates. The calculation of lost margin is proposed to be the difference between existing tariff rates and the discounted rates collected over estimated sales volumes of rate schedules G-1 and G-2 (firm and interruptible sales service rate schedules). The proposed MLR tariff contains a provision for a Balancing Adjustment to reconcile the difference between billed revenues and revenues that would have been billed absent the discount, plus interest at the average of the 3-month Commercial Paper Rate for the immediately preceding 12-month period.

Atmos is further requesting, in conjunction with the proposed EDR, to implement an SDR to recover any investment related to economic development initiatives for overall system improvement and/or reliability and that cannot be directly assigned to a customer or group of customers. Like the MLR, Atmos states that the SDR is intended to encourage industrial development, infrastructure investment, and job growth within its service area. Atmos describes the SDR revenue requirement as consisting of the following:

1. SDR-related Plant In-Service not included in base gas rates minus the associated SDR-related accumulated depreciation and accumulated deferred income taxes;

2. Retirement and removal of plant related to SDR construction;

3. The rate of return on the net rate base being the overall rate of return on capital authorized for the Company's Pipe Replacement Program Rider;

4. Depreciation expense on the SDR related Plant In-Service less retirements and removals; and

5. Adjustment for ad valorem taxes.

The SDR rate is proposed to be charged to the G-1 and G-2 rate classes in proportion to their relative base revenue share approved in Atmos's most recent general rate case.

Admin. 327 specifically states that utilities with active EDR contracts should demonstrate through detailed cost-of-service analysis that nonparticipating ratepayers are not adversely affected by EDR customers, and that cost-recovery issues are to be held for general rate proceedings. In spite of this, Atmos states that EDR promotes an important public purpose similar to pipe replacement programs and, therefore, it should be permitted to recover its costs on a more current basis.

When questioned in a request for information about the lack of public notice to customers of the proposed MLR and SDR tariffs, Atmos maintained that these tariffs do not constitute rate changes, but provide for recovery of temporary costs incurred through the EDR program only. It is Atmos's position that if the Commission determines that non-participating customers are not adversely impacted by a proposed EDR contract and approves such a contract, then it is appropriate that it be allowed to recover its costs through the proposed MLR and SDR rates as opposed to waiting for a general rate adjustment proceeding.

As further support for its proposal, Atmos stated that the Commission approved an MLR tariff in a general rate proceeding of Atmos's predecessor company, Western Kentucky Gas Company, in Case No. 1999-070.[2] The tariff, which has now expired, was the result of a unanimous settlement agreement and provided for lost revenues to be shared equally by ratepayers and shareholders. Atmos indicated that, although it

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[2] Case No. 1999-070, The Application of Western Kentucky Gas Company for an Adjustment of Rates (Ky. PSC Dec. 21, 1999).

has proposed in this proceeding for the MLR to be 100 percent ratepayer funded, it would be amenable to a 50/50 sharing.

After reviewing the record in this proceeding and being otherwise sufficiently advised, the Commission finds that the EDR Rider is reasonable and should be approved as proposed. The Commission found in Admin. 327 that EDRs would provide important incentives to large commercial and industrial customers to either locate or expand their facilities in Kentucky and bring jobs and capital investment to the Commonwealth. The Order in that proceeding states that utilities should have the flexibility to design EDRs according to the needs of their customers and service areas and to offer them to new and existing customers who require an incentive to locate or expand facilities. The Commission's Order contemplated that EDRs would be offered by special contract instead of by tariff in order to avoid a free rider problem that could be invited by a general tariff offering a fixed discount. The Commission has since then approved EDR tariffs providing for special contracts, and will be able to closely monitor Atmos's use of approved EDR contracts and their effects on non-participating customers through the process outlined in Admin. 327. Atmos responded to questions concerning its request to offer a fixed discount, and the Commission is satisfied that it will be able to monitor the use of such consistent discounting through proposed EDR special contracts.

The Commission further finds that it is inappropriate to approve the proposed MLR and SDR tariffs without notice to customers of proposed implementation of a new rate and outside a general rate case proceeding, especially since the issue of cost recovery within the scope of a rate case proceeding was specifically provided for in Admin. 327. The Commission is not persuaded by Atmos's contention that these tariffs do not constitute rates. Likewise, while we acknowledge that EDRs promote a public purpose, we are not persuaded that the purpose is similar to the issue of public safety that is promoted by the pipe replacement programs of Atmos and other gas utilities.

IT IS THEREFORE ORDERED that:

1. Atmos's EDR tariff, Fourth Revised Sheet Nos. 45 through 47, is approved as proposed effective on and after the date of this Order.

2. Atmos's proposed MLR and SDR tariffs are denied.

3. With any future filing of EDR special contracts, Atmos shall include all support required by Admin. 327 and as set out herein, including information in the EDR Annual Report set out in the Appendix to this Order.

4. Within 20 days from the date of this Order, Atmos shall file its revised tariff showing the date of issue and that it was issued by authority of this Order.

By the Commission

Commissioner Breathitt is abstaining from this proceeding.

ENTERED
AUG 27 2012
KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2012-00066 DATED AUG 27 2012

ECONOMIC DEVELOPMENT RATE CONTRACT REPORT

UTILITY:______________________________ YEAR:____________

	Current Reporting Period	Cumulative
1) Number of EDR Contracts -		
Total:	________	________
Existing Customers:	________	________
New Customers:	________	________
2) Number of Jobs Created -		
Total:	________	________
Existing Customers:	________	________
New Customers:	________	________
3) Amount of Capital Investment -		
Total:	________	________
Existing Customers:	________	________
New Customers:	________	________

4) Consumption –

	Current Reporting Period	Cumulative
(A) DEMAND		
Total:	________ Mcf	________ Mcf
Existing Customers:	________ Mcf	________ Mcf
New Customers:	________ Mcf	________ Mcf
(B) ENERGY/CONSUMPTION		
Total:	________ Mcf	________ Mcf
Existing Customers:	________ Mcf	________ Mcf
New Customers:	________ Mcf	________ Mcf

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