

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE FILING OF SEVEN (7) SPECIAL)	CASE NO.
INDUSTRIAL CONTRACTS BY ATMOS)	2016-00052
ENERGY CORPORATION)	

ORDER

On January 29, 2016, the Commission issued an Order (“Opening Order”) which established this proceeding to investigate the reasonableness of seven special contracts (“Service Agreements”) under which Atmos Energy Corporation (“Atmos”) intends to provide large-volume natural gas service to certain of its industrial customers at specified, non-tariffed rates. The Service Agreements were submitted by Atmos through the Commission’s electronic Tariff Filing System (“TFS”). On March 16, 2016, in TFS2016-154, Atmos submitted an eighth proposed service agreement (“New Service Agreement”) through the TFS, with terms and conditions similar to those in the seven Service Agreements under review in this matter.

Having reviewed the most recent proposed special contract, and being otherwise sufficiently advised, we find that an investigation is necessary to determine its reasonableness and that it should be included as part of this docketed proceeding. The Commission also finds that the effective date of the New Service Agreement should be suspended pursuant to KRS 278.190(2) for five months from its earliest possible effective date. The Commission further finds that Atmos should respond to all

previously issued requests for information in this case that are pertinent to this New Service Agreement. A redacted version of this New Service Agreement is attached hereto and incorporated herein as 2016-00052-H. Finally, the Commission finds that any similar service agreements should be filed for approval into the record of this proceeding along with all information pertaining to such agreements previously required to be submitted in requests for information.

IT IS THEREFORE ORDERED that:

1. The New Service Agreement attached hereto and incorporated herein as 2016-00052-H is made part of this proceeding in order for the Commission to investigate its reasonableness.

2. The New Service Agreement identified as 2016-00052-H herein, was filed on March 16, 2016, and is suspended for five months from April 15, 2016, up to and including September 14, 2016.¹

3. Atmos shall respond to all previously issued requests for information in this matter that are pertinent to New Service Agreement 2016-00052-H, within 14 days of the date of this Order.

4. Any additional service agreements renegotiated pursuant to the special contract reformations discussed in pages 14–16 of the Direct Testimony of Gary L. Smith in Case No. 2015-00343² shall be filed for approval into the record of this

¹ This New Service Agreement was filed through the Commission's electronic TFS on March 16, 2016. Because Atmos did not provide 30 days' notice of the proposed rate, the earliest possible effective date for this Agreement is April 15, 2016, which is 30 days after the filing date.

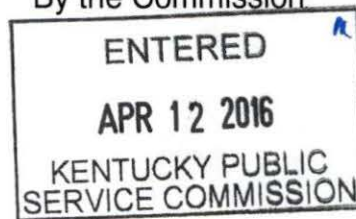
² Case No. 2015-00343, *Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modifications* (filed Jan.15, 2016).

proceeding along with all information pertaining to such agreements previously required to be submitted in requests for information.

5. All other provisions in this matter not in conflict with this Order shall remain in full force and effect.

6. Nothing shall prevent the Commission from issuing further Orders prior to the end of the suspension period.

By the Commission



ATTEST:


Acting Executive Director 

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2016-00052 DATED **APR 12 2016**

RECEIVED

MAR 16 2016

PUBLIC SERVICE
COMMISSION

March 15, 2016

Brent Kirtley
Branch Manager, Tariff Branch
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

RE: Special Contract – [REDACTED]

Dear Mr. Kirtley,

Atmos Energy Corporation (Company) herewith submits an original non-redacted and one redacted copy of the special contract and cost analyses with the above reference customer.

Also enclosed is a Petition for Confidentiality pertaining to the terms agreed to between the Company and the above referenced customer as well as the cost analysis. This information is extremely confidential and has previously been afforded confidential protection by the Commission.

Please feel free to contact me at 270.685.8024 if you have any questions and/or need any additional information.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Martin".

Mark A. Martin
Vice President – Rates & Regulatory Affairs

Enclosures

cc: Randy Hutchinson

RECEIVED

MAR 16 2016

**PUBLIC SERVICE
COMMISSION**

**COMMONWEALTH OF KENTUCKY
BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

IN THE MATTER OF:

APPLICATION OF ATMOS ENERGY CORPORATION FOR)	
APPROVAL AND CONFIDENTIAL TREATMENT OF A)	
SPECIAL CONTRACT AND COST ANALYSIS INFORMATION)	CASE NO. _____
SUBMITTED TO THE KENTUCKY PUBLIC SERVICE)	
COMMISSION)	

APPLICATION AND PETITION FOR CONFIDENTIALITY

Atmos Energy Corporation ("Atmos Energy" or "Company"), by counsel, pursuant to KRS 278.160(3) and 807 KAR 5:001(13) petitions the Commission for approval of the attached special contract and for confidential protection of the matters redacted therein and the supporting cost analysis. One non-redacted and one redacted copy of the special contract and cost analysis are attached.

BACKGROUND

Atmos Energy has entered into a special contract with one of its industrial customers, a copy of which is attached. This contract replaces an existing contract that was previously approved by the Commission. Pursuant to 807 KAR 5:011, Atmos Energy submits the new special contract for approval by the Commission. Consistent with prior orders of the Commission relating to special contracts, Atmos Energy performed a cost analysis related to this special contract to determine whether the anticipated revenue from this customer will

cover all variable costs incurred in serving this customer and also contribute toward the Company's fixed costs. The results of that cost analysis are also attached.

The Company respectfully requests the Commission to accept and approve the attached special contract and grant confidential protection to the matters redacted therein, pursuant to 807 KAR 5:001(13), as well as the related cost analysis.

CONFIDENTIAL PROTECTION

The Commission has consistently granted confidential protection to the terms of special contracts filed by the Company under the provisions of 807 KAR 5:001, Section 13 and KRS 61.878. The Commission did so most recently in the Company's last rate case: In Re: Application of Atmos Energy Corporation For Adjustment of Rates, 2013-00148, Orders dated November 25, 2013, and March 24, 2014.

The information contained in the special contract and the cost analysis is commercial information that if disclosed could cause substantial competitive harm to Atmos Energy. This information is not publicly available. The contract contains a specific covenant that the customer will keep the provisions of the contract confidential. It would be difficult or impossible for someone to discover this information from other sources. If this information were available to competitors in this form, they could use it to the competitive detriment of Atmos Energy. This information is not generally disclosed to non-management employees of Atmos Energy and is protected internally by the Company as proprietary information. The disclosure of this proprietary information would result in significant or irreparable competitive harm to Atmos Energy by providing its competitors with non-reciprocal competitive advantage. No public purpose is served by the disclosure of such information.

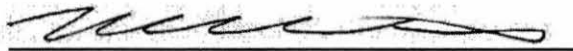
KRS 61.878 (1)(c) provides that "records confidentially disclosed to an agency or required by any agency to be disclosed to it, generally recognized as confidential or proprietary, which is openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records "shall remain confidential unless otherwise ordered by a court of competent jurisdiction." The natural gas industry is very competitive. Atmos Energy has active competitors, who could use this information to their advantage and to the direct disadvantage of Atmos. Atmos would be at a competitive threat of loss of business due to the ability of its competitors to leverage the information to their advantage. The public disclosure of the customer name, customer identifiable information, monetary terms negotiated with each customer and critical monetary terms would permit an unfair advantage to those competitors. With the identity of the customer and the knowledge of the contract terms, competitors would have inside information to target these customers. For these reasons, the customer name, customer identifiable information, and monetary terms in the contracts are exempt from public disclosure pursuant to KRS 61.878(c)(1). The Commission has also previously ruled that the cost analysis submitted with a special contract filing is entitled to confidential protection. See, e.g. In Re: Application of Atmos Energy Corporation for Adjustment of Rate 2013-00148.

Atmos Energy requests that the attached non-redacted special contract and supporting information be held confidentially indefinitely. The statutes cited above do not allow for disclosure at any time. Given the competitive nature of the natural gas business and the efforts of non-regulated competitors to encroach upon traditional markets, it is imperative that

regulated information remain protected and that the integrity of the information remain secure.

For those reasons, Atmos Energy requests that the attached non-redacted copy of the special contract and cost analysis be treated as confidential.

Respectfully submitted this 15 day of March, 2016



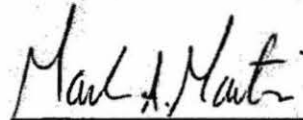
Mark R. Hutchinson
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Randy@whplawfirm.com

John N. Hughes
124 West Todd Street
Frankfort, KY 40601
(502) 227-7270
Fax: None
jnhughes@johnnhughespsc.com

Attorneys for Atmos Energy Corporation

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 foregoing Petition are true as I verily believe.



Mark A. Martin

Analysis of Contribution to Fixed Cost

Annual Mcf {1}	[REDACTED]	
Annual Revenue {1}:		
Monthly Base Charges	[REDACTED]	
Transportation Adm. Fee, @ Tariff	12 mo. X \$50/mo. =	600
Commodity Gas Cost, @ Tariff	[REDACTED]	*
Non-Commodity Charges, @ Tariff	[REDACTED]	*
Simple Margin, special contract rates applied to annual deliveries:		
Firm Service -	[REDACTED]	
@ [REDACTED] per Mcf		[REDACTED]
	TOTAL	[REDACTED]

* - Excluding non-commodity charges and gas costs as noted.

Less Variable/Avoidable Costs:

Lost & Unaccounted For {2}	[REDACTED]	
Odorant {3}	[REDACTED]	
KPSC Assessment {3}	[REDACTED]	
Measurement/Regulation Station {3}	[REDACTED]	
Meter Reading, Maintenance and Billing	[REDACTED]	[REDACTED]
Contribution to Fixed Cost:		[REDACTED]

Notes: {1} - Pro-forma Test Year Volumes in Case 2015-00343. Annual Revenue applying rate structures and service mix in pending special contract.
 {2} - Special Contract specifies retention of supplies Customer delivers to Atmos to compensate for the actual L&U experienced in Atmos' distribution system through which Customer receives service. Thus, the variable cost of L&U is, in effect, recovered through gas-in-kind retention.
 {3} - Calculations shown on Page 2 of this Exhibit.

Analysis of Contribution to Fixed Cost

Odorant:

Odorant injection rate, lb./MMcf
[REDACTED]
Odorant Cost per lb., current

x
x

[REDACTED]
[REDACTED]

KPSC Assessment:

Annual Revenue
Percentage

[REDACTED]

[REDACTED]

Measurement/Regulation Station:

Standard Measurement/Regulation Station Cost-
Materials: Regulators, valves, piping, etc.
Labor: Fabrication and installation
Total

Annual Depreciation Rate -

x

[REDACTED]

Annual Depreciation Expense

[REDACTED]

Capital Cost {1}
Income Tax {2}

[REDACTED]

TOTAL

[REDACTED]

Notes:

[REDACTED]

LARGE VOLUME NATURAL GAS SERVICE AGREEMENT

THIS LARGE VOLUME NATURAL GAS SERVICE AGREEMENT ("Service Agreement") is made and entered into as of the 1st day of February, 2016, by and between **ATMOS ENERGY CORPORATION**, a Texas and Virginia corporation, ("Atmos Energy") and [REDACTED], ("Customer"). Atmos Energy and Customer may also be referred to herein as a Party and collectively as the "Parties."

WITNESSETH:

WHEREAS, Atmos Energy desires to provide to Customer, and Customer desires to obtain natural gas service in accordance with the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the Parties hereto agree as follows:

1. Natural Gas Service Type and Volume Levels. Customer agrees to purchase from Atmos Energy or deliver to Atmos Energy for transportation, such service type being specified below, all of Customer's natural gas service requirements for Customer's processing and feedmill facilities located at or near [REDACTED] ("Customer's Facility"). Atmos Energy agrees to provide service to Customer of the type specified below, subject to the provisions of Atmos Energy's then current tariff as approved by the Kentucky Public Service Commission ("Tariff"), referenced rate schedules thereunder and the related Rules and Regulations governing natural gas service as set forth in the Tariff and this Service Agreement, including the attached General Terms and Conditions and Exhibit "A," Receipt Point(s) and Delivery Point(s) which are made a part hereof.

Atmos Energy shall have no obligation to provide for deliveries in excess of the maximum daily and hourly volumes hereinafter specified, or to provide sales gas to Customer in the event Customer chooses a transportation service only. Atmos Energy shall not receive volumes for transportation service in excess of the daily volume hereinafter specified (MDQ):

Service	Type	Maximum Mcf/Day Delivery	Maximum Mcf/Hr. Delivery	Maximum Mcf/Day Receipt (MDQ)
Transportation	T-4	[REDACTED]	[REDACTED]	[REDACTED]

2. Price. Except as provided below, the price to be paid by Customer shall be in accordance with the rate schedule under which the service is rendered. Such rates, including gas cost adjustments, shall be subject to change as permitted by law. Any federal, state or other legal taxes, other than those based upon or measured by Atmos Energy's income which apply now or may hereafter be imposed, shall be paid by the Customer, in addition to the rates as specified.

Throughout the Term (as defined in Section 3 below) of this Agreement:

The monthly base charge will be [REDACTED] per month.

The simple margin for all volumes delivered each month shall be [REDACTED]

3. Term. This Service Agreement shall become effective on March 1st, 2016, or the first day of the next month following the date on which this Service Agreement is approved by the Kentucky Public Service Commission (the "Commission"), whichever is later, and shall continue in full force and effect for ten (10) years (the "Primary Term"), and shall continue for successive one year terms following the Primary Term (each a "Rollover Term") provided that either Party may terminate this Service Agreement at the end of the Primary Term or at the end of any subsequent Rollover Term upon providing one hundred twenty (120) days prior written notice to the other Party. The Primary Term and subsequent Rollover Terms may be referred to collectively as the "Term". Customer agrees that while this Service Agreement is in effect, all natural gas consumed by Customer at Customer's Facility shall be delivered by Atmos Energy. In the event that the Commission should not approve this Service Agreement the Parties agree to use their best efforts to work with each other and with the Commission to negotiate a service agreement on terms that are acceptable to the Commission. In such event, and unless prohibited by the Commission, the rates and terms of the current service agreement shall remain in effect.

In the event Customer plans to make a filing, or direct another party to make such filing on its behalf with the Federal Energy Regulatory Commission or any other regulatory body, seeking authority to receive direct gas service following the termination of this Service Agreement, Customer agrees to notify Atmos Energy of such plans not less than 30 days prior to the date of such filing.

During the Term, Atmos Energy and Customer may mutually agree to amend this Agreement to change the type of service provided for under this agreement, i.e. sales, transportation, firm or interruptible, if Customer's needs or qualifications change. Any amendment changing the type of service must be in writing and will not, unless mutually agreed by the Parties in such amendment, change the Term of this Agreement.

4. Parking. Subject to the terms of the Tariff, Customer may "park" positive monthly imbalance volumes, up to 10% of the T-4 volumes delivered by Atmos Energy into Customer's facilities. The cost to Customer of parking such imbalance volumes shall be as set forth in the Tariff. Unless otherwise provided in the Tariff, Atmos Energy shall provide the parking service on a "best efforts" basis, and the parked volumes shall be deemed "first through the meter" delivered to Customer in the month following delivery to Atmos Energy on Customer's account.

5. Electronic Flow Measurement and Communications Equipment. The Customer will pay the Company, in accordance with the Tariff, for all costs for additional facilities and/or equipment, including electronic flow measurement ("EFM") equipment and cellular communications equipment which will be required as a result of receiving Interruptible (Rate T-3) and/or Firm (Rate T-4) service, including all costs of installation and ongoing EFM repair, maintenance and replacement of such additional facilities and/or equipment and cellular communication support services. Customer is responsible for providing and maintaining the electric support services related to the EFM equipment. Such additional facilities and equipment shall be installed, maintained, operated, and owned by Atmos Energy.

6. Notices. Any notice required to be given under this Agreement, or any notice that either Party hereto may desire to give the other Party, shall be in writing and shall be considered duly delivered when deposited in the United States mail, postage prepaid, registered or certified, or sent by facsimile and addressed as follows:

If to Atmos Energy:

ATMOS ENERGY CORPORATION
(Kentucky/Mid-States Division)
5430 LBJ Freeway, Suite 160
Dallas, Texas 75240-2601
Attention: Contract Administration
Telephone: (214) 206-2574
Fax: (214) 206-2101

If to Customer:



or such other address as Atmos Energy, Customer or their respective successors or permitted assigns shall designate by written notice given in the manner described above. Routine communications, including monthly invoices, may be mailed by ordinary mail, postage prepaid, and addressed to the above-designated name and address.

7. Attachments. General Terms and Conditions and Exhibit "A," Receipt Point(s) and Delivery Point(s), attached hereto are expressly incorporated herein and made a part of this Service Agreement for all purposes, and all references herein and therein to "this Service Agreement" include the same and their respective terms and provisions.

8. Confidentiality. Both Parties agrees that the terms and conditions of this Service Agreement shall not be disclosed to any person or party not employed by the other Party or retained as counsel, consultant, or advisor by the other Party, other than information required to be furnished to its independent public accountant, or in connection with the defense of any litigation, or as otherwise agreed to by the Parties in writing.

IN WITNESS WHEREOF, the Parties hereto have executed this Service Agreement as of the date first above written.

By: 
Title: 

ATMOS ENERGY CORPORATION

By: _____
Bill Greer
Vice President, Marketing
Kentucky/Mid-States Division

**GENERAL TERMS AND CONDITIONS
TO
LARGE VOLUME NATURAL GAS SERVICE AGREEMENT**

1. This Service Agreement is subject to all applicable and valid statutes, ordinances, and the rules, regulations and orders of the Kentucky Public Service Commission.

2. If not presently installed, the necessary regulating and metering equipment constructed to Atmos Energy' specifications shall be installed for delivery of the gas as specified herein, and the Customer shall install or cause to be installed additional regulating equipment to provide suitable operating pressure at the various points of utilization. A suitable location for the regulating and metering equipment shall be provided by the Customer without charge, and Atmos Energy shall have the right to operate, maintain and alter this equipment as is necessary or desirable. Each Party hereto agrees to maintain any equipment owned by it and used in the performance of its obligations herein in good, safe and efficient operating condition and repair.

3. Title to sales gas shall pass from Atmos Energy to Customer, upon the delivery thereof, at the Customer's service address. The title to all gas transported hereunder shall remain with the Customer while such gas is on Atmos Energy's local distribution facilities. The Receipt Point(s) at which the Customer will deliver transportation gas to Atmos Energy and the Delivery Point(s) at which Atmos Energy will redeliver transportation gas to Customer are designated on Exhibit "A" attached hereto.

4. As between the Parties hereto solely, for transportation services, Atmos Energy shall be deemed in exclusive control and possession of the gas after the delivery thereof at the Receipt Point(s) and prior to the redelivery thereof, to or for the account of Customer at the Delivery Point(s). At all other times, as between the Parties hereto solely, Customer shall be deemed in exclusive control and possession of the gas and responsible for any damages, losses or injuries caused by Customer's handling, delivery or receipt thereof. For sales services, Atmos Energy shall be deemed in exclusive control and possession of the gas prior to the delivery thereof, to or for the account of Customer at the Customer's service address. Upon delivery thereof, as between the Parties hereto solely, Customer shall be deemed in exclusive control and possession of the gas and responsible for any damages, losses or injuries caused by Customer's handling, delivery or receipt thereof. Each Party agrees to indemnify, defend and hold harmless the other Party from and against any and all claims, liabilities, damages, losses, costs and expenses incurred by such other Party arising from or relating to any damages, losses or injuries for which the indemnifying Party is responsible pursuant to the provisions of this paragraph, except to the extent such damages, losses or expenses shall have been caused by the negligence of the indemnified Party.

5. In the event that either Atmos Energy or Customer is rendered unable, wholly or in part, by reason of an event of force majeure, to perform its obligations under this Service Agreement, other than to make payment due hereunder, and such Party has given notice and full particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied on, then the obligations of the Parties, insofar as they are affected by such force majeure, shall be suspended during the continuance of such inability, but for no longer period, and such cause shall, insofar as

possible, be remedied with all reasonable dispatch; provided, however, that the settlement of strikes or lock-outs shall be entirely within the discretion of the Party having such difficulty, and the above requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes or lock-outs by acceding to the demands of the opposing party when such course is inadvisable in the discretion of the Party having the difficulty.

The term "force majeure" as used herein shall mean any cause not reasonably within the control of the Party claiming suspension and includes, but is not limited to, acts of God; strikes; lock-outs; wars; acts of terrorism; riots; orders or decrees of any lawfully constituted federal, state or local body; fires; storms; floods; wash-outs; explosions; breakage or accident to machinery or lines of pipe; inability to obtain or delay in obtaining rights-of-way, materials, supplies or labor permits; temporary or permanent failure of gas supply or transportation services; capacity constraints; repair, maintenance or replacement of facilities used in the performance of the obligations contained in this Service Agreement; or any other cause of a similar nature whether of the kind herein enumerated or otherwise.

6. During each billing period involving transportation services, Customer agrees to maintain its deliveries of gas to Atmos Energy and its receipt of gas from Atmos Energy in continuous balance or as near thereto as practicable on an Mcf or MMBtu basis, as designated by Atmos Energy. Further, the Customer agrees to be liable to Atmos Energy for all cost, expense and liability incurred by Atmos Energy, which directly relates to the Customer's transportation activities on the interstate pipeline system. To the extent that imbalances owed to Customer by Atmos Energy occur, such "parked" volumes of the Customer shall be deemed, for billing purposes, to be the first volumes delivered to the Customer during the succeeding billing period. When the volume of gas taken by Customer during a billing period exceeds the aggregate of its T-3 and T-4 transportation nominations and its available "parked" volumes, Customer shall pay Atmos Energy for such overrun volumes at the applicable cash out rate.

7. In the event of default hereunder by either Party, in addition to all rights and remedies at law or in equity to which the non-defaulting Party may be entitled, the defaulting Party agrees to reimburse the non-defaulting Party for all court costs and other expenses incurred. Further, each Party agrees to indemnify and hold the other Party harmless with regard to any and all fees, costs and expenses incurred by the non-defaulting Party in relation to all claims, disputes and suits which arise under or are related to the defaulting Party's default under this Service Agreement, except to the extent such claims, disputes and suits shall have been caused by the negligence of the non-defaulting Party. In no event shall either Party be liable for indirect, special, consequential or punitive damages.

8. This Service Agreement shall be binding upon the Parties hereto and their respective successors and assigns.

9. This Service Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, between the Parties hereto with respect to the subject matter hereof.

EXHIBIT "A"
RECEIPT POINT (S) AND
DELIVERY POINT (S)

Receipt Point(s)

[REDACTED]

Delivery Point(s)

[REDACTED]

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

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