

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

ORDER

In the final Order in Case No. 2013-00148¹, the Commission required Atmos Energy Corporation (“Atmos”) to internally conduct and maintain studies, analyses, reports, quantifications, etc., that demonstrate the threat of bypass of its special contract customers, and that the special contracts continue to generate sufficient revenue to cover variable costs and contribute to fixed costs. In compliance with the Commission’s Order, Atmos reviewed its special contracts and determined that, while the existing contract rates continued to generate sufficient revenue to cover variable costs and contribute to fixed costs, the current cost of bypassing its system justified higher rates for most of its special contract customers.²

On December 16, 2015, Atmos submitted filings through the Commission’s electronic Tariff Filing System (“TFS”) requesting approval of five renegotiated special contracts (“Service Agreements”) to provide large-volume natural gas service for certain industrial customers at specified rates. On January 11, 2016, and January 19, 2016, Atmos filed two additional renegotiated Service Agreements for which it sought

¹ Case No. 2013-00148, *Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modifications* (Ky. PSC Apr. 22, 2014).

² Case No. 2015-00343, *Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modifications* (Ky. PSC Nov. 23, 2015), Direct Testimony of Gary L. Smith at 14.

Commission approval. On January 29, 2016, the Commission issued an Order finding that further proceedings were necessary to determine the reasonableness of the Service Agreements, and suspending them based on their varied proposed effective dates. Atmos responded to two rounds of Commission Staff ("Staff") requests for information.

On March 16, 2016, Atmos submitted an eighth proposed Service Agreement through the TFS, with terms and conditions similar to those in the seven Service Agreements under review in this matter. On April 12, 2016, the Commission issued an Order suspending the Service Agreement filed on March 16, 2016, finding that it should be incorporated in and made part of this proceeding, and suspending its effective date. The Commission further found that Atmos should respond to the previously issued Staff requests for information as they pertained to the Service Agreement filed March 16, 2016. Any similar Service Agreements that Atmos negotiated with any other large-volume natural gas customers were required by that Order to be filed for approval into the record of this proceeding along with all information pertaining to such agreements previously required to be submitted in response to requests for information.

On May 31, 2016, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("Attorney General"), filed a motion requesting full intervention in this case. On June 2, 2016, Atmos filed an objection to the Attorney General's motion for intervention, and on June 7, 2016, the Attorney General filed a response to Atmos's objection. On June 14, 2016, the Commission issued an Order granting the Attorney General's intervention request, and giving both Atmos and the Attorney General an opportunity to file within seven days either

comments or a request for a hearing. Neither Atmos nor the Attorney General filed comments or requested a hearing.

On September 1, 2016, Atmos filed into the record of this proceeding two additional Service Agreements with special-contract customers containing terms and conditions similar to those in the other Service Agreements under review in this matter, and for which it requested Commission approval. These Service Agreements are designated as 2016-00052-I and 2016-00052-J.

On September 22, 2016, Atmos submitted responses to previous Staff requests for information pertaining to the two most recently filed Service Agreements as required by the Commission's Order of April 12, 2016.

Because no party has requested a hearing, this matter now stands submitted for Commission decision based on the record developed concerning these renegotiated Service Agreements.

DISCUSSION

Atmos requested confidential treatment of the contract rates and certain other information contained in the ten Service Agreements submitted for Commission approval. The Commission notes that, while it cannot divulge the terms of the contracts, Atmos submitted in its various filings and through the process of discovery information demonstrating that each of the contracts and associated rates as proposed (1) covers the variable costs to serve the customer, (2) makes a contribution to the fixed cost of Atmos's system, and (3) is justified by the unique competitive circumstances for each customer. The Commission finds that Atmos has substantiated to our satisfaction that physical bypass of its system remains a viable option for each of these special-

contract customers to varying degrees, and that the special-contract rates reflect necessary discounts to prevent loss of revenues and associated costs shifting to Atmos's other customers. The Commission further finds, after reviewing the Service Agreements and cost data, that they are reasonable and should be approved as filed, with one exception. The Commission finds that Service Agreement 2016-00052-H, filed on March 16, 2016, should be conditionally approved subject to the filing of a contract amendment requiring the customer served under that Service Agreement to be responsible for any additional investment required by Atmos to serve that customer. Absent such an amendment, the Commission cannot find proposed Service Agreement 2016-00052-H to be reasonable.

IT IS THEREFORE ORDERED that:

1. The Service Agreements identified as 2016-00052-A, 2016-00052-B, 2016-00052-C, 2016-00052-D, and 2016-00052-E, filed on December 16, 2015; the Service Agreement identified as 2016-00052-F, filed on January 11, 2016; the Service Agreement identified as 2016-00052-G, filed on January 19, 2016; and the Service Agreements, herein identified as 2016-00052-I and 2016-00052-J, filed on September 1, 2016, are approved on and after the date of this Order.

2. The Service Agreement identified as 2016-00052-H, filed on March 16, 2016, is conditionally approved subject to Atmos's filing within 30 days of the date of this Order the contract amendment as described in the findings above.

By the Commission

ENTERED
OCT 06 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2016-00052

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