

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
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PUBLIC SERVICE  
COMMISSION

In the Matter of:

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

**ATTORNEY GENERAL'S RESPONSE TO OBJECTION**

The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, hereby files his response to Atmos Energy Corporation's (hereinafter "Atmos" or "Company") Objection to Attorney General's Motion for Intervention. Atmos, by counsel, contends that the Attorney General "delayed in filing" his Motion to Intervene, yet never asserts that the filing was untimely, nor provides any evidence to support the notion the Attorney General's intervention would unduly disrupt and delay the proceedings.<sup>1</sup>

Atmos contends that the Attorney General "delay[ed] in filing the motion" in this matter and "having failed to provide any reason for the delay in submitting the motion and having ignored the specific regulatory requirement to do so... the Attorney General's cavalier attitude toward the regulations should not be indulged."<sup>2</sup> The Company's portrayal of the Attorney General's attitude toward the regulations and the Commission could not be further from the truth, and it is the Company's mistake, or complete disregard, of the facts in *Caldwell* that appears cavalier.

<sup>1</sup> *In The Matter of: Application of Atmos Energy Corporation for Approval and Confidential Treatment of a Special Contract and Cost Analysis Information Submitted to the Kentucky Public Service Commission, Case No. 2016-00052, Objection to Attorney General's Motion for Intervention*, Dated June 2, 2016. Page 2.

<sup>2</sup>*Id.* at 2.

The facts of *Caldwell* and the present case are distinguishable, particularly that the Attorney General was given notice by Caldwell County Water District in its rate case, but he was unaware of this proceeding until May.<sup>3</sup> The Attorney General has no record of either being served or notified of this proceeding, and only became aware of the docket by pure happenstance. Although this investigation stems from the testimony and cross-examination initiated by the Attorney General in Atmos' last rate case, he was not informed of this particular proceeding, and therefore intervened as soon as he became aware.<sup>4</sup> It is prudent to point out that the Company made no reference to this fact in its objection, reciting the entire procedural process of this docket but failing to mention the Attorney General was never given the opportunity or notification he would need to participate.<sup>5</sup> Maybe the Company believes that the Attorney General had no interest in the special contracts issue, since Atmos seems to indicate the only way the Attorney General can participate in regard to this issue is to file testimony.<sup>6</sup> It is doubtful though that Atmos would think the Attorney General was not interested in this topic, as the Attorney General has asked specific questions to the Company regarding its special contracts and its investigation into those contracts since the last rate case.<sup>7</sup> Until the Attorney General became aware of this docket, it was his understanding that the investigation into the reasonableness of these contracts was to be included in the rate case proceeding of Atmos, Case No. 2015-00343.

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<sup>3</sup> *In the Matter of: Application of Caldwell County Water District for Rate Adjustment Pursuant to 807 KAR 5:076, Case No. 2016-00054, Attorney General's Supplemental Motion to Intervene, Dated March 21, 2016. Page 3 (footnote 3)*

<sup>4</sup> *In The Matter of: Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modifications, Case No. 2013-00148, Order, Dated April 22, 2014. Page 36.*

<sup>5</sup> *In The Matter of: Application of Atmos Energy Corporation for Approval and Confidential Treatment of a Special Contract and Cost Analysis Information Submitted to the Kentucky Public Service Commission, Case No. 2016-00052, Objection to Attorney General's Motion for Intervention, Dated June 2, 2016. Page 2.*

<sup>6</sup> *In The Matter of: Application of Atmos Energy Corporation for Approval and Confidential Treatment of a Special Contract and Cost Analysis Information Submitted to the Kentucky Public Service Commission, Case No. 2016-00052, Objection to Attorney General's Motion for Intervention, Dated June 2, 2016. Page 2.*

<sup>7</sup> *In the Matter of: Application of Atmos Energy Corporation for a General Rate Adjustment, Case No. 2015-00343, Attorney General's Initial Requests for Information, Dated February 19, 2016. Page 16.*

After reviewing the record in 2015-00343, the only mention the Attorney General finds of Case No. 2016-00052 is a fleeting reference in Commission Staff's second RFI.<sup>8</sup>

Frankly, the Attorney General is confused by the hardline position Atmos has taken against allowing the Attorney General into a proceeding on an issue he would otherwise have been a party to had the special contracts been left as part of the rate case, Case No. 2015-00343. The Attorney General requested no changes to procedure, additional time or discovery when he requested intervention in this case, and for the Company to assert otherwise is pure conjecture. On the contrary, the Attorney General initially intervened in this proceeding to ensure that there was no information uncovered in discovery that would otherwise be applicable in the current rate case, as Atmos contends that almost the entire record in Case No. 2016-00052 is confidential.<sup>9</sup> Intervening in this case is the only security the Attorney General has to ensure new or contradictory evidence regarding the special contracts has not been presented by the Company, as it may be a subject in Case No. 2015-00343, especially since the vast majority of the record in this case is filed under petitions of confidentiality. Again, the Attorney General hopes the Commission takes note that he did not request leave from the applicable procedures in his motion, particularly 807 KAR 5:001 Section 4(11)(d), even as the Company attempts to mischaracterize the Attorney General's attitude toward the regulations.

The Attorney General admits that his intervention in this matter comes after multiple rounds of discovery had been requested of Atmos, but as stated in *Caldwell* although not

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<sup>8</sup> In the Matter of: Application of Atmos Energy Corporation for a General Rate Adjustment, Case No. 2015-00343, Commission Staff's Second Request for Information to Atmos Energy Corporation, Dated February 19, 2016. Page 12.

<sup>9</sup> See In The Matter of: Application of Atmos Energy Corporation for Approval and Confidential Treatment of a Special Contract and Cost Analysis Information Submitted to the Kentucky Public Service Commission, Case No. 2016-00052, Atmos Energy Corp. Petition for Confidential Treatment & Atmos Energy Corp. Petition for Confidentiality. Filed March 31, and March 4, 2016.

mentioned by Atmos, the Commission has permitted intervention by the Attorney General after discovery was complete in prior instances.<sup>10</sup> The distinction between this proceeding and *Caldwell*, as Atmos neglected to reference, is that the Commission in *Caldwell* had set a procedural schedule which included a date for intervention, and the Attorney General filed after that intervention date.<sup>11</sup> In addition to setting an intervention deadline in *Caldwell*, the Commission also required that any person, who submits a motion to intervene after the deadline, must demonstrate good cause to support the untimely filing.<sup>12</sup> In the present case, it is the Attorney General's understanding that no order was filed that set forth an intervention deadline and therefore no requirement was imposed to show good cause for an untimely filing. It is important to note that at no point in the Company's Objection did Atmos ever assert that the Attorney General's Motion to Intervene was filed untimely, and understandably so, as no time was set as a deadline for intervention. Should the Commission find that the Attorney General's intervention was late and therefore warrants a showing of good cause for his late intervention, the aforementioned shall be considered his statement of good cause for such a purpose.

WHEREFORE, the Attorney General renews his request for intervention, as his filing in this matter was timely and necessary, and should the Commission decide his motion was filed late, the Attorney General moves this response be considered a supplemental motion to intervene, setting forth good cause for his late intervention.

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<sup>10</sup> In the Matter of: Application of Caldwell County Water District for Rate Adjustment Pursuant to 807 KAR 5:076, Case No. 2016-00054, Attorney General's Supplemental Motion to Intervene, Dated March 21, 2016. Page 3. (citing *In the Matter of: Application of South Kentucky Rural Electric Cooperative Corporation for Approval to Purchase the Fixed Assets of the Monticello Electric Plant Board, Monticello, KY, 2007-00374*, Commission Order dated 13 Dec. 2007)

<sup>11</sup> In the Matter of: Application of Caldwell County Water District for Rate Adjustment Pursuant to 807 KAR 5:076, Case No. 2016-00054, Commission's Order dated May 11, 2016. Page 1.

<sup>12</sup> *Id.* at 1.

ANDY BESHEAR  
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*Certificate of Service and Filing*

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to the Acting Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

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Atmos Energy Company  
Atmos Energy Corporation  
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This 7th day of June, 2016



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Assistant Attorney General