

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY	)	
CORPORATION FOR APPROVAL OF A SPECIAL	)	CASE NO.
CONTRACT PURSUANT TO ITS ECONOMIC	)	2019-00145
DEVELOPMENT RIDER	)	

ORDER

On May 9, 2019, Atmos Energy Corporation (Atmos) filed an application seeking approval of a special contract entered into by and between Atmos and Diageo Americas Supply, Inc. (Diageo), pursuant to the terms of Atmos's Economic Development Rider tariff (EDR Tariff). By Order issued on May 21, 2019, a procedural schedule was established to process this matter. The procedural schedule provided for, among other things, a deadline for requesting intervention and two rounds of discovery upon Atmos's application. The Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), is the only intervenor in this matter. Atmos responded to two rounds of data requests. Both Atmos and the Attorney General filed notice that the matter can be submitted for a decision based on the evidentiary record without the need for a formal hearing. The Commission agrees and will take this matter under consideration based on the existing record.

THE SPECIAL CONTRACT

Atmos states that its EDR Tariff is designed to enhance the utilization of its gas system while encouraging industrial development and promoting job growth within its service territory. Atmos states that the EDR Tariff is available to both new customers and

existing customers and provides for an incentive or discount rates for purposes of economic development. Under Atmos's EDR Tariff, any new customers with an expected demand of at least 9,000 Mcf per year can qualify for the EDR discount. Existing customers may also qualify for the EDR but must demonstrate an increase in demand of at least 4,500 Mcf per year.

Consistent with Atmos's EDR Tariff, the special contract term is eight years and provides a 25 percent discount to the distribution charge for firm service<sup>1</sup> for the first four years of the contract. According to Atmos, Diageo is currently investing \$115 million in a new facility in Shelbyville, Kentucky, that will create approximately 31 new jobs. Atmos notes that Diageo's natural gas consumption is projected to be at least 9,000 Mcf per year. Atmos has provided an analysis showing that the special contract will generate revenue sufficient to cover the variable costs related to serving Diageo and make a contribution towards fixed costs. Atmos also provided a flow analysis demonstrating that its existing capacity is capable of serving the incremental demand projected by Diageo.

### DISCUSSION

Atmos's EDR Tariff was approved by the Commission in Case No. 2012-00066,<sup>2</sup> finding that the EDR Tariff conforms to the EDR requirements established in Administrative Case No. 327 (Admin. 327).<sup>3</sup> Those requirements are as follows:

- 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 a contract;

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<sup>1</sup> Diageo is served under Firm Transportation Service Rate T-4 and will be required to have a demand of at least 750 Mcf each month in order to qualify for the discount rate.

<sup>2</sup> Case No. 2012-00066, *Application of Atmos Energy Corporation for an Order Approving Economic Development Riders* (Ky. PSC Aug. 27, 2012).

<sup>3</sup> Administrative Case No. 327, *An Investigation into the Implementation of Economic Development Rates by Electric and Gas Utilities* (Ky. PSC Sept. 24, 1990).

- Adequate capacity with a reserve margin for system reliability to be demonstrated;
- Demonstration that the discounted rate exceeds marginal cost recovery through current marginal cost-of-service study with each contract;
- Annual report showing revenues received from each EDR customer and marginal cost for that customer;
- Demonstrate during rate proceedings through cost-of-service analysis that nonparticipating customers are not adversely affected by the EDR contract;
- Recovery of customer-specific fixed costs from the EDR customer over the term of the contract;
- 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; and
- Term of the 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 EDR customer after the discount period to be identical to those contained in the standard rate schedule for the customer class.

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that the terms of the Diageo special contract are reasonable and should be approved as they comply with the requirements set forth in Atmos's EDR Tariff and in Admin. 327. The Commission notes that the special contract provides an important incentive to Diageo to expand its facilities involving an investment of \$115 million and the creation of 31 new jobs. Notwithstanding Atmos's characterization that the Diageo load to be served under the special contract as a new facility, the Commission finds that Diageo qualifies for the discount rate under Atmos's EDR Tariff as an existing customer expanding its operations.<sup>4</sup> Such a finding is supported by Atmos's description that Diageo

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<sup>4</sup> See Atmos's response to Commission Staff's First Request for Information, Item 6.c. Diageo will have incremental load of at least 4,500 Mcf per year.

has taken service from Atmos since 2016 but did not fully complete the build out of this facility until the construction of the dry house in January 2019.

IT IS HEREBY ORDERED that:

1. The special contract between Atmos and Diageo is approved effective October 1, 2019.<sup>5</sup>

2. By March 31 of each year, Atmos shall file an annual report with the Commission detailing, for the prior calendar year, revenues received from Diageo and the marginal costs associated with serving Diageo throughout the term of the special contract.

3. During any rate proceedings filed by Atmos subsequent to the effective date of the special contract with Diageo, and during a period when Atmos still has an active EDR contract, Atmos shall demonstrate through detailed cost-of-service analysis that its non-EDR ratepayers are not adversely affected by the EDR rate to Diageo and any other EDR customers that may be on the Atmos system at that time.

4. Atmos shall file by March 31 of each year a report with the Commission providing, for the prior calendar year, the information shown in the Appendix to this Order.

5. Any documents filed pursuant to Ordering paragraphs 2 and 4 of this Order shall reference the number of this case and shall be retained in the utility's general correspondence file.

6. The Executive Director is designated authority to grant a reasonable extension of time for the filing of any documents required by this Order upon Atmos's showing of good cause for such extension.

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<sup>5</sup> Under the relevant terms of the special contract, the effective date of the special contract is the first of the month in the month after the special contract is approved by the Commission.

7. Within 20 days of the date of this Order, Atmos shall file with the Commission, using the Commission's electronic Tariff Filing System, the special contract as approved herein.

8. This case is closed and removed from the Commission's docket.

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By the Commission



ATTEST:

A handwritten signature in blue ink, appearing to read "Steven R. Penson". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00145 DATED **SEP 24 2019**

ECONOMIC DEVELOPMENT RATE CONTRACT REPORT

UTILITY: \_\_\_\_\_

YEAR: \_\_\_\_\_

	<u>Current Reporting Period</u>	<u>Cumulative</u>		
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 -				
(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

\*Honorable John N Hughes  
Attorney at Law  
124 West Todd Street  
Frankfort, KENTUCKY 40601

\*Justin M. McNeil  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Kent Chandler  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

\*Larry Cook  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204

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

\*Mark R Hutchinson  
Wilson, Hutchinson & Littlepage  
611 Frederica Street  
Owensboro, KENTUCKY 42301

\*Rebecca W Goodman  
Assistant Attorney General  
Office of the Attorney General Office of Rate  
700 Capitol Avenue  
Suite 20  
Frankfort, KENTUCKY 40601-8204