

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ATMOS ENERGY CORPORATION MOTION TO )	CASE NO.
MODIFY COMMISSION'S ORDER OF )	2019-00363
SEPTEMBER 19, 2018 IN CASE NO. 2018-00280 )	

ORDER

On September 25, 2019, Atmos Energy Corporation (Atmos) submitted a motion seeking the Commission to reopen and modify the final Order in Case No. 2018-00280,<sup>1</sup> issued on September 19, 2018. Atmos, pursuant to KRS 278.390, filed this motion to seek Commission approval to alter the reporting requirement concerning the issuance of securities in Case No. 2018-00280. This docket was subsequently opened to address Atmos's motion.

In Case No 2018-00280, Atmos received Commission approval to implement a \$3,000,000,000 universal shelf registration for debt and equity financing. In the final Order, the Commission directed Atmos to file within ten days after each security issuance a statement setting forth the date or dates of issuance, the price paid, the interest rate, the purchasers, and all fees and expenses involved.<sup>2</sup> Historically, Atmos issued stock in large "follow-on" offerings, primarily to institutional investors and filed the required reports with the Commission within ten days. Atmos states as it did in Case No. 2017-00037 that they have recently begun issuing stock pursuant to a program known as at the market

---

<sup>1</sup> Case No. 2018-00280, *Application of Atmos Energy Corporation for an Order Authorizing the Implementation of \$3,000,000,000 Universal Shelf Registration* (Ky. PSC Sept. 19, 2018).

<sup>2</sup> *Id.*, ordering paragraph 3.

(ATM) in which shares are issued in increments smaller than those of large follow-on offerings.

Atmos states they have recently been issuing ATMs more frequently in which the shares are issued in smaller increments, and Atmos is able to maximize the price it receives for the stock versus having to accept a discounted price in the larger follow-on offerings. The Order in Case No. 2018-00280 did not anticipate such offerings, nor did the Atmos's application request the ability to make ATM offerings.

Atmos's motion states that the information concerning the issuance of these smaller offerings is included in the Securities Exchange Commission (SEC) 10Q (10Q) filings and that if the Commission denies the motion, Atmos would be required to file a motion for confidentiality in its filings with the Commission until such time that the 10Q filing is made with the SEC. This would add additional filing burdens on its staff and the Commission's Staff, according to Atmos.

Currently, information concerning ATM issuances, including the price paid, is included in Atmos's quarterly 10-Q filings, which normally occur outside the ten-day window for reporting a stock issuance, per the Commission's Order. Atmos states that it prefers not to publicly disclose the price it receives for the stock in the small issuances between the 10-Q filings. It is concerned that if the stock issuance prices become public knowledge prior to its subsequent 10-Q filing, the stock price can become vulnerable to manipulations.<sup>3</sup>

The Commission finds that, based on Atmos's showing of good cause for a

---

<sup>3</sup> Application at 4.

revision of the reporting requirements in paragraph 3 of the final Order in Case No. 2018-00280, Atmos's motion for modification of that Order should be approved.

IT IS THEREFORE ORDERED that:

1. Atmos's motion for modification of reporting requirements for security issuances pursuant to its \$3,000,000,000 Universal Shelf Registration is granted.

2. Ordering paragraph 3 of the September 18, 2018 Order in Case No. 2018-00280 is modified to the limited extent that for stock issued under the ATM program, Atmos shall file with the Commission a statement setting forth the date or dates of issuance, the price paid, the interest rate, the purchasers, and all fees and expenses, including underwriting discounts or commission or other compensation, within ten days following the date each such stock issuance was publicly disclosed in Atmos's 10Q report filed with the SEC.

3. All other provisions of the September 18, 2018 Order in Case No. 2018-00280 shall remain in full force and effect.

4. This case is hereby closed and will be removed from the Commission's docket.

By the Commission

ENTERED  
OCT 15 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2019-00363

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

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

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