

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

IN THE MATTER OF THE APPLICATION)
OF ATMOS ENERGY CORPORATION FOR)
AN ORDER AUTHORIZING THE)
IMPLEMENTATION OF A \$3,000,000,000)
UNIVERSAL SHELF REGISTRATION)
)

CASE NO. 2019-00363

MOTION TO REOPEN AND MODIFY THE ORDER OF SEPTEMBER 19, 2018

Atmos Energy Corporation (the “Company” or “Atmos”), by counsel, pursuant to KRS 278.390 and all other applicable law, submits this Motion to Reopen and Modify the Commission’s Order of September 19, 2018 in Case No. 2018-00280. There were no intervenors and no appeal was taken in this proceeding. The Order is now final. However, KRS 278.390 gives the Commission continuing jurisdiction to review and modify its orders:

... Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked **or modified** by the commission, unless the order is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction. (Emphasis added).

On August 21, 2018, Atmos submitted an application seeking Commission approval to implement a \$3,000,000,000 universal shelf registration for debt and equity financing to be issued in one or more series. On September 19, 2018, the Commission entered an Order authorizing Atmos to implement the \$3,000,000,000 universal shelf registration (the “Order”). The Commission’s Order further directed Atmos to file with the Commission a statement setting forth the date or dates of issuance, the price paid, the interest rate, if any, the name of the purchasers and all fees and expenses involved in the transaction, within ten (10) days of issuance.

This same reporting requirement was included in the Commission's Order in Atmos' earlier 2015 filing with the Commission seeking authorization for a 2,500,000,000 universal shelf registration. See In Re: Application of Atmos Energy Corporation for An Order Authorizing the Implementation of a \$2,500,000,000 Universal Shelf Registration, KPSC 2015-00346 Order of December 16, 2015.

For the reasons set forth below and in Atmos' subsequent Motion of Atmos to Reopen and Modify the Order of December 16, 2015 (KPSC 2017-00037), Atmos requested the Commission to modify its order of December 16, 2015 to provide that the reports of stock issuances be filed within ten (10) days of Atmos' quarterly 10Q reports filed with the Securities and Exchange Commission, rather than within ten (10) days of each issuance. By its Order of February 8, 2017 in KPSC 2017-00037, the Commission granted Atmos the requested change on the timing of the required reports.

Historically, Atmos has issued stock pursuant to its universal shelf filing in large "follow-on" offerings, primarily to institutional investors. Consistent with the Commission's orders in prior universal shelf filings, Atmos filed the required reports within ten (10) days of each such issuance.

Atmos, however, has more recently been issuing stock pursuant to a program known as "at the market" (ATM) in which shares are issued in much smaller increments in the normal course of market activity. Atmos is able to optimize the price it receives for the stock because the current market price is being paid for the stock versus a discounted price that normally occurs when large blocks are issued. It is this change in issuance protocol that is the sole subject of this motion to modify. The Order does not address the differences in the timing of public disclosure of the small stock issuances. Atmos seeks a modification of the Order to allow for a different reporting date for these small block stock issuances under the Company's ATM program.

Information concerning the issuance of these smaller blocks, including the price paid, is included in Atmos' quarterly 10Q filings, but such filings will normally be outside the ten (10) day window for reporting a stock issuance required by the Order. To optimize the benefits of these offerings, it would be preferable not to publicly disclose the price paid for the stock in these small issuances between the 10Q filings. If the fact the Company is actively issuing shares becomes public knowledge prior to the next 10Q filing, stock prices would be vulnerable to manipulations.

In order to minimize the risk of manipulation for these shares issued at the market price, public disclosure of the prices paid should be delayed until the Company's next 10Q quarterly filing. Atmos would file the required Commission reports within ten (10) days of each 10Q filing. For purposes of the recent issuances, the report would be filed within ten (10) days from the Company's next 10Q filing.

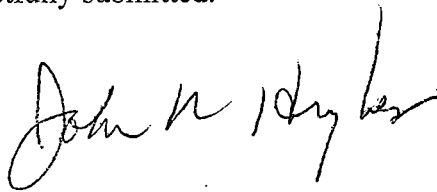
The alternative would be for the Company to file, for each day that it actively issues shares into the market, the required report under a petition for confidentiality, asking that the information relating to issuance, including price paid, be held confidential by the Commission until Atmos' next 10Q report has been filed. The information included in the required reports does not affect rates or directly relate to any tariff. Customers are not specifically notified of the issuances or the filing of the reports. Deferral of the reporting of this information will have no impact on the type, amount or detail of information provided. Atmos asserts that no significant public purpose is served under this approach and it would result in unnecessary work on the part of both Atmos and the Commission Staff.

As stated above, in Atmos' prior universal shelf filing (In Re: Application of Atmos Energy Corporation For An Order Authorizing the Implementation of a \$2,500,000 Universal Shelf Registration, KPSC Case 2015-00036), the Commission had ordered Atmos to make its report within ten (10) days after each issuance. For the same reasons set forth above, Atmos filed a subsequent proceeding to Reopen and Modify the Commission's Order to allow Atmos to file the

required reports with the Commission within ten (10) days following the date each issuance was publically disclosed in Atmos 10Q reports filed with the Security and Exchange Commission. See KPSC Case No. 2017-00037. By its Order entered on February 8, 2017, the Commission granted Atmos' Motion and ordered the required reports to be filed within ten (10) days following the date each such stock issuance was publically disclosed in Atmos' 10Q report filed with the Security Exchange Commission.

Atmos respectfully requests the Commission to reopen and modify ordering paragraph 4 in its September 19, 2018 Order to allow the required reports to be filed within ten (10) days following the date each such stock issuance was publically disclosed in its 10Q reported filed with the Security and Exchange Commission.

Respectfully submitted.



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CERTIFICATE OF SERVICE

I hereby certify that on the 25 day of September, 2019, the original of this Motion to Reopen and Modify, together with ten (10) copies was filed with the Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40602, by hand delivery.

