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JUN 1 0 2004

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**FACSIMILE TRANSMISSION** AND REGULAR MAIL

June 7, 2004

**Executive Director** Kentucky Public Service Commission 211 Sower Boulevard P.O. Box 615 Frankfort, Kentucky 40602

> RE: Atmos Energy/Hedging Program for 2003-2004 Heating Season Case No. 2004-00142

Dear Sir:

Enclosed herewith is an original, plus ten (10) copies, of Atmos Energy's Comments in response to comments of the Attorney General in connection with the above referenced case. I am also enclosing one extra copy which I would appreciate your marking as "stamped" as having been filed with your office and return to me.

If there are any problems or questions with the enclosed, please do no hesitate to contact me. Thanks.

Very truly yours,

Mark R. Hutchinson Mark R. Hutchinson

MRH:bkk

## COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

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#### IN THE MATTER OF:

JUN 1 0 2004 PUBLIC SERV.CE COMMISCION

The Final Report of Atmos Energy Corporation on Its Hedging Program for the 2003-2004 Heating Season And Motion to Conduct a Hedging Program for the 2004-2005 Heating Season

Case No. 2004-00142

### <u>COMMENTS BY ATMOS ENERGY IN RESPONSE TO COMMENTS OF THE</u> <u>ATTORNEY GENERAL</u>

Atmos Energy Corporation's ("Atmos Energy") proposal to conduct a hedging program for the winter of 2004-2005 marks the fourth consecutive winter during which a hedging program would be employed. Since the initial pilot program, approved in Case No.1997-513 as the first hedging program in the State of Kentucky, numerous modifications have been incorporated as a result of experience, Commission guidance, and comments from the Office of the Attorney General ("AG"). Atmos Energy's hedging proposal for the upcoming winter duplicates the plan approved in Case No. 2003-00192 for the preceding winter of 2003-2004. The AG has been the sole intervener in each of the three preceding cases.

The comments filed by the AG on June 1, 2004 present the same arguments offered in past cases as the foundation for their opposition to Atmos Energy's hedging proposal for the winter of 2004-2005. As in past cases, the AG takes issue with Atmos Energy operating a hedging plan at the same time that it operates under a gas procurement performance based rate-making ("PBR") mechanism. Claiming that the least cost pricing encouraged by the PBR conflicts with the hedging plan's goal of reducing price volatility, the AG suggests that approval be contingent on a cost-benefit analysis showing that customers will not be paying more under the combination of hedging and a PBR than they would in the absence of both programs. As the Commission concluded in last year's Order (Case No. 2003-00192), the suggested analysis would not be meaningful since there is no supportable basis for volatility assumptions that would be required.

The AG also recommends that some portion of the cost of the program be assigned to Atmos Energy. Again, this is an AG position from each of the previous hedging cases. In each instance, the Commission has determined that customers should bear the cost of the program "since it is customers, not the utility or its shareholders, who stand to receive the benefits realized through a hedging program."

Certain comments by the AG apply to provisions which are not a feature of Atmos Energy's proposal for the upcoming winter. For example, the AG discourages approval of a program employing "mechanistic" purchasing of hedges. Although Atmos Energy's early hedging programs did utilize a "systematic" approach to purchases, neither the program last winter nor the proposal for next winter employ that process. Atmos Energy's plan is to enter its hedging arrangements in response to changes in market conditions, as suggested last year by the Commission.

Atmos Energy is a long-standing, consistent advocate of hedging programs with the belief that hedging is essential to ensure affordable and stable gas costs for customers, particularly in response to continued gas price volatility and market

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uncertainty. As stated in the Commission's Order in Case No. 2003-00192, "achieving price stability, not the lowest possible cost, is the goal of a hedging program."

The AG offers no new arguments, nor any evidence in support of their old arguments in opposing the hedging proposal for next winter. Atmos Energy's proposed hedging program is the same plan approved for last winter. Atmos Energy respectfully requests Commission approval of the motion to conduct a hedging program for the 2004-2005 Heating Season, as filed on April 20, 2004.

Respectfully submitted this 7th day of June, 2004.

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Mark R. Hutchinson 2207 Frederica Street Owensboro, Kentucky 42303 (270) 926-5011

Douglas Walther Atmos Energy Corporation P.O. Box 650250 Dallas, Texas 75265 Attorneys for Atmos Energy

#### CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of June, 2004, the original of the foregoing comments, together with ten (10) copies, were filed with the Kentucky Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602, and a true copy thereof mailed by first class mail to the following named persons:

Hon. Elizabeth E. Blackford Hon. David Spenard Assistant Attorney Generals Office of Rate Intervention 1024 Capitol Center Drive Frankfort, Kentucky 40601

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Mark R. Hutchinson