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October 5, 2005

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

RECEIVED

OCT 7 2005

PUBLIC SERVICE
COMMISSION

RE: Response to Attorney General's Motion for Procedural Order
Case No. 2005-00057

Dear Ms. O'Donnell:

I am enclosing herewith an original, plus eleven (11) copies of a Response to Attorney General's Motion for Procedural Order in the above referenced case. Please return one stamped file copy to me. Thanks,

Very truly yours,



Mark R. Hutchinson

MRH:bk

Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

OFFICE OF THE ATTORNEY GENERAL
COMMONWEALTH OF KENTUCKY

Case No. 2005-00057

Complainant

v.

ATMOS ENERGY CORPORATION

Respondent

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OCT 7 2005

PUBLIC SERVICE
COMMISSION

**RESPONSE TO ATTORNEY GENERAL'S MOTION
FOR PROCEDURAL ORDER**

On February 1, 2005, the Attorney General filed a complaint with this Commission against Atmos Energy Corporation ("Atmos") alleging that Atmos' rates were not fair, just and reasonable. The Attorney General did not allege that Atmos was charging rates unauthorized by its approved tariffs. To the contrary, based on clearly erroneous and unfounded allegations, the Attorney General concluded Atmos' duly approved rates were excessive. The Attorney General requested a formal hearing on its allegations.

On February 14, 2005 Atmos filed a detailed response to the Attorney General's complaint. In its response, Atmos established, as a matter of law, that the Attorney General had not made a prima facie case and that there was no legal or regulatory justification for this proceeding to continue. Atmos accordingly requested the Commission to dismiss the Complaint. The Commission has not yet ruled on whether the Complaint should be dismissed or a hearing scheduled.

Although Atmos will not reiterate the arguments made in its February 14 response to the Attorney General's Complaint, suffice it to say, the Attorney General has not made a prima facie showing of unreasonable rates thereby justifying a hearing. Moreover, for the Commission to

permit this action to proceed would violate well established ratemaking principals which have long been recognized by this Commission. The Attorney General's Complaint attempts to set rates on the single issue of return on equity and this Commission has consistently rejected single issue cases. Moreover, the Attorney General seeks to have this Commission violate the rule against retroactive ratemaking by lowering Atmos' approved rates for the sole purpose of correcting what the Attorney General claims is excessive earnings for the year 2001 through 2003,

For the foregoing reasons, as well as other grounds contained in Atmos' earlier response, the Attorney General's Complaint should be dismissed there being no factual or legal justification for further proceedings.

Respectfully submitted this 5 day of October, 2005.



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Douglas Walther
Atmos Energy Corporation
PO Box 650250
Dallas, Texas 75265

John Hughes
124 West Todd
Frankfort, Kentucky 40601

ATTORNEYS FOR ATMOS ENERGY
CORPORATION

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served upon Dennis G. Howard, II, Assistant Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, by mailing a copy of same to him on this the 5 day of October, 2005.



Mark R. Hutchinson