

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ATMOS)	
ENERGY CORPORATION FOR AN ORDER)	CASE NO.
AUTHORIZING THE ISSUANCE OF UP TO)	2024-00392
2,000,000 SHARES OF COMMON STOCK)	
THROUGH ITS LONG-TERM INCENTIVE PLAN)	

ORDER

On December 12, 2024, Atmos Energy Corporation (Atmos) submitted a request for an Order pursuant to KRS 278.300 authorizing the issuance of 2,000,000 additional shares of no par value Atmos Common Stock through its Long-Term Incentive Plan for Management (LTIP). There are no intervenors in this case. On January 28, 2025, the Commission entered an Order establishing a procedural schedule and continuing the application beyond the 60-day period specified in KRS 278.300(2). On February 14, 2025, Atmos responded to a request for information from Commission Staff. On March 4, 2025, Atmos requested that this matter be submitted on the written record pursuant to the procedural schedule. This matter is now before the Commission for a decision on the merits.

BACKGROUND

Atmos is a Virginia and Texas corporation in good standing with the Kentucky Secretary of State and is duly qualified under the laws of Kentucky to carry on its business in the Commonwealth. Atmos operates as a public utility in the business of purchasing,

transmitting, and distributing natural gas to residential, commercial, and industrial users in Western and South-Central Kentucky.¹

Atmos stated that the shares for which it is seeking authority to issue in this case will be issued solely through the LTIP and will generate no proceeds. Atmos argued that the shares will be used to attract and retain the services of employees and non-employee directors, to provide them with a proprietary interest in Atmos, and to motivate them using performance-related incentives linked to longer-range performance goals and the interest of Atmos's shareholders.²

Atmos stated that the types of awards that may be granted under the LTIP include incentive stock options, non-qualified stock options, stock appreciation rights, restricted stock, restricted stock units, performance shares, bonus shares, and other stock unit awards. Atmos also stated that employees receiving cash bonuses pursuant to its Annual Incentive Plan for Management have the option to convert all or a portion of the cash bonus to shares of stock issue pursuant to the LTIP.³

Atmos stated that the Human Resources Committee of the Board of Directors has sole discretion to determine to whom awards will be granted, as well as the terms, conditions, performance criteria, and restrictions applicable to each award.⁴ Atmos, which operates in several states, indicated that the LTIP is not a state or division specific

¹ Application at 2.

² Application at 1–2.

³ Application at 2.

⁴ Atmos's responses to Commission Staff's First Request for Information (Atmos's Responses to Staff's First Request), Item 4.

plan.⁵ Atmos stated that, since it was established, only Atmos Energy's officers and other key employees (approximately 190 employees during fiscal 2024) as well as non-employee directors have participated in the LTIP.⁶

Atmos asserted that it engaged Meridian Compensation Partners to conduct an independent market compensation study and that the study established that Atmos's compensation program is consistent with the programs used by a majority of investor-owned utilities and publicly traded general industry companies in the marketplace. Specifically, Atmos claimed that its mix of pay very closely aligns with the market average.⁷

Atmos stated that its LTIP does not have a specific limit regarding the number of shares it can issue each year.⁸ However, Atmos stated that it issues only about 200,000 shares per year pursuant to the LTIP.⁹ According to Atmos, it issued 220,558 shares, 254,917 shares and 197,260 shares in each of the preceding three fiscal years, respectively.¹⁰

Atmos's original LTIP, which authorized the issuance of 1,500,000 shares of common stock, was approved in Case No. 1998-00509.¹¹ In Case No. 2007-00098, the

⁵ Atmos's Responses to Staff's First Request, Item 5.

⁶ Atmos's Responses to Staff's First Request, Item 4.

⁷ Atmos's Responses to Staff's First Request, Item 5.

⁸ Atmos's Responses to Staff's First Request, Item 10.

⁹ Atmos's Responses to Staff's First Request, Item 9.

¹⁰ Atmos's Responses to Staff's First Request, Item 10.

¹¹ Case No. 1998-00509, *The Application of Atmos Energy Corporation (Atmos), Through Its Division, Western Kentucky Gas Company of Owensboro, Kentucky, for an Order Authorizing the Creation and Issuance of 150,000 Shares of Common Stock Through Its Equity Incentive and Deferred*

Commission approved the issuance of up to 2,500,000 shares of common stock through Atmos's LTIP.¹² Similarly, in Case No. 2011-00087, the Commission approved the issuance of up to 2,200,000 shares.¹³ Most recently, in Case No. 2015-00379, the Commission again approved the issuance of up to 2,500,000 shares.¹⁴ As of February 10, 2025, Atmos had 237,238 shares remaining for future issuance under the LTIP pursuant to previous approvals.

As of September 30, 2024, Atmos indicated that it had 154,258,845 shares of total common stock (no par value) issued and outstanding and no shares of preferred stock. Atmos further indicated that its total capitalization was \$19,941,315,000, consisting of \$12,157,669,000 and \$7,783,646,000 in equity and long-term debt, respectively.¹⁵ Atmos asserted that issuing shares pursuant to the LTIP for which approval was requested herein would not materially affect its capital structure.¹⁶

Compensation Plan for Non-Employee Directors and 1,500,000 Shares Through Its 1998 Long-Term Incentive Plan (Ky. PSC Jan. 15, 1999), Order at 2.

¹² Case No. 2007-00098, *The Application of Atmos Energy Corporation for an Order Authorizing the Issuance of up to 2,500,000 Shares of Common Stock Through Its 1998 Long-Term Incentive Plan* (Ky. PSC Apr. 16, 2007), Order at 2.

¹³ Case No. 2011-00087, *Application of Atmos Energy Corporation for an Order Authorizing the Issuance of up to 2,200,000 Shares of Common Stock Through Its Long-Term Incentive Plan* (Ky. PSC Apr. 28, 2011), Order at 2.

¹⁴ Case No. 2015-00379, *Application of Atmos Energy Corporation for an Order Authorizing the Issuance of up to 2,500,000 Shares of Common Stock Through Its Long-Term Incentive Plan* (Ky. PSC Jan. 12, 2016), Order at 2.

¹⁵ Application, Exhibit A at 5.

¹⁶ Atmos's Responses to Staff's First Request, Item 9; see also Atmos's Responses to Staff's First Request, Item 7 (explaining how Atmos will account for the issuance of the stock).

LEGAL STANDARD

When an applicant seeks approval for the issuance of securities, KRS 278.300(3) requires “that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.” In addition, under KRS 278.300(4), “[t]he commission may grant or deny the application in whole or in part, or may grant it with such modifications and upon such terms and conditions as the commission deems necessary or appropriate.”

DISCUSSION

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the proposed issuance of 2,000,000 shares of common stock through Atmos’s LTIP as described in Atmos’s application should be granted. The issuance is for lawful objects within the corporate purposes of Atmos’s utility operations, which includes attracting and retaining capable employees to operate the utility. The issuance is also necessary and appropriate for and consistent with the proper performance of its service to the public, will not impair its ability to perform that service, is reasonably necessary and appropriate for such purposes.

While this Order generally approves the issuance of shares pursuant to the LTIP as requested because such stock options may be useful and appropriate for attracting and retaining employees and because it will not have a material effect on Atmos’s capital structure and costs, the Commission notes that the LTIP leaves significant discretion to Atmos, or its board, as to the amount and basis for offering such compensation, and the

structure of such offerings. To the extent that Atmos exercises its discretion to issue stock in quantities or for reasons that the Commission determines or has determined to be unreasonable, the Commission will exclude such costs from rates—e.g., Atmos noted that the expense of this program has been excluded from cost of service in Atmos rate cases since Case No. 2013-00148, and was excluded, at the time filing, from Atmos’s pending rate case.¹⁷ Thus, while the Commission is approving Atmos’s request in this matter, such approval should not be read as an indication or guarantee that costs associated with the issuance will be recoverable in rates.

IT IS THEREFORE ORDERED that:

1. Atmos is authorized to issue up to 2,000,000 shares of common stock through its LTIP, as set forth in its application.
2. The shares issued pursuant to this authorization shall be used only for the lawful purposes set out in the application.
3. No costs resulting from the issuance of the shares approved herein shall be recovered in rates of Kentucky customers unless the Commission authorizes recovery after finding that Atmos provided evidence that the costs are reasonable.
4. This case is closed and removed from the Commission's Docket.


Nothing contained herein shall be construed as a finding of value for any purpose or as a warranty on the part of the Commonwealth of Kentucky or any agency thereof as to the securities authorized herein.

¹⁷ Atmos’s Response to Commission Staff’s First Request, Item 11(e).

PUBLIC SERVICE COMMISSION

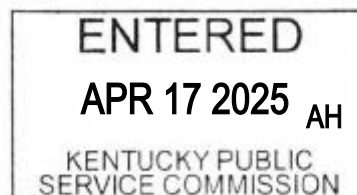

Chairman

Vice Chairman


Commissioner

ATTEST:


Executive Director



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