

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ATMOS)
ENERGY CORPORATION FOR AN ADJUSTMENT) CASE No.
OF RATES AND TARIFF MODIFICATIONS) 2017-00349

**ATTORNEY GENERAL'S RESPONSES TO DATA REQUESTS
OF THE KENTUCKY PUBLIC SERVICE COMMISSION STAFF**

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and submits the following responses to data requests of the Kentucky Public Service Commission Staff in the above-styled matter.

Respectfully submitted,

ANDY BESHEAR
ATTORNEY GENERAL



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Certificate of Service and Filing

Counsel certifies that the foregoing is a true and accurate copy of the same document being filed in paper medium with the Commission within two business days; that the electronic filing has been transmitted to the Commission on February 14, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding. Counsel further certifies that the responses set forth herein are true and accurate to the best of his knowledge, information, and belief formed after a reasonable inquiry.

This 14th day of February, 2018.



Assistant Attorney General

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WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen

QUESTION No. 1

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Refer to the Direct Testimony of Lane Kollen ("Kollen Testimony"), page 19, lines 9-12.

- a. Provide an explanation of the impacts of the recently enacted Tax Cuts and Jobs Act ("TCJA") on Net Operating Loss ("NOL") Carrybacks and Carryforwards.
- b. Identify the fiscal impact(s), if any, of the changes to NOL Carrybacks and Carryforwards in the TCJA on the conclusions contained in the Kollen Testimony and Exhibits.

RESPONSE:

- a. The TCJA eliminated the ability to carryback NOLs. For those utilities with NOL ADITs (assets), the lower tax rate results in a restatement of the ADIT at the 21% rate and a reclassification of the excess from ADITs to regulatory assets if there is "reasonable assurance" that the regulator will allow recovery. Otherwise, the excess NOL ADIT must be written off to income.
- b. None. Mr. Kollen removed the NOL ADIT from the revenue requirement.

WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen / Counsel as to Objection

QUESTION No. 2

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Refer to the Kollen Testimony, page 24, regarding the normalization requirements in the Internal Revenue Code of 1986 ("IRC"). Also refer to Case No. 2017- 00481,¹ the Direct Testimony of Jennifer K. Story ("Story Testimony"), page 6, regarding the Internal Revenue Service normalization requirements. The Story Testimony states that the use of an amortization period unsupported by use of the Average Rate Assumption Method ("ARAM") would not be accepted by the Internal Revenue Service, because Atmos's protected excess deferred taxes must be amortized using the ARAM. In addition, she states that the Commission's December 27, 2017 Order reflecting a 20-year amortization period suggests that a normalization violation could be asserted and severe tax consequences could occur. Provide an analysis of the AG's position on the Story Testimony and why it should or should not be accepted in this proceeding.

RESPONSE:

Mr. Kollen agrees with Witness Story's testimony as to the "protected" excess ADIT related to plant life and method temporary differences. Each utility will have a different amortization period based on its unique vintage plant book and tax data. The Commission's Order in Case No. 2017-00481 may have used a 20-year amortization period for illustrative purposes, or because KIUC's complaint in Case No. 2017-00477 used 20 years as a proxy for the four named electric utilities in order to estimate the effect on those electric utilities. Mr. Kollen recognizes that each utility will have to comply with the ARAM requirements for the protected excess ADIT based on their unique vintage plant data and recommends that the Commission reflect those unique amortization periods for ratemaking purposes. The Commission has unfettered discretion as to the amortization period with respect to the "unprotected" excess ADIT. Objection, to the extent that this data request requests the opinion of the Attorney General and not Mr. Kollen, as attorneys are precluded under legal rules of ethics from providing testimony.

¹ Case No. 2017-00481, *An Investigation of the Impact of the Tax Cuts and Job Act on the Rates of Atmos Energy Corporation, Delta Natural Gas Company, Inc., Columbia Gas of Kentucky, Inc., Kentucky-American Water Company and Water Service Corporation* (filed Dec.27, 2017).

WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen

QUESTION No. 3

Page 1 of 2

Refer to the Kollen Testimony, pages 31-37, which states that "the one-eighth O&M expense methodology" for determining an allowance for cash working capital ("CWC") is "outdated, inaccurate, and arbitrary. The methodology is simple, but does not reflect the actual leads and lags in the Company's operating cash flows," and, "I recommend that the Commission set the Company's cash working capital at negative \$3.553 million based on the lead/lag study filed by the Company adjusted to remove the non-cash expenses."

- a. Mr. Kollen refers to lead/lag studies performed by NiSource utilities operating in other states resulting in negative CWC when "properly adjusted." Explain whether any of these studies were "properly adjusted" in the jurisdictional commission's decisions, or whether the adjustments which result in a negative CWC are adjustments made by Mr. Kollen and/or his firm.
- b. Identify all Kentucky cases in which Mr. Kollen filed testimony with the Commission wherein he opposed using the one-eighth Operation and Maintenance ("O&M") expense method to derive the allowance for CWC.
- c. Identify any of the cases cited in response to part b. of this request in which the Commission adopted a recommendation by Mr. Kollen to use something other than the one-eighth O&M method to derive the CWC allowance.

RESPONSE:

- a. The adjustments to remove the effects of non-cash expenses from the CWC studies were made by Mr. Kollen, not the jurisdictional commission's decisions.
- b. Mr. Kollen recalls that he addressed this issue in one electric rate case proceeding in Kentucky, but is not able to identify the case or locate the testimony. In electric base rate case proceedings, the calculation of CWC is not a factor due to the Commission's use of capitalization in lieu of rate base for the return component of the revenue requirement. However, the calculation is a factor in gas base rate proceedings. Mr. Kollen addressed this issue in the last Atmos base rate case proceeding, Case No. 2015-00343. That case was settled without an adjudication of the CWC issue; however, the settlement required Atmos to file a CWC study using the lead/lag approach. Mr. Kollen also addressed this issue in the last Columbia Gas base rate case proceeding, Case No. 2016-00162. That case was settled without an adjudication of the CWC issue; however, Columbia Gas agreed to perform a

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- CWC study using the lead/lag approach with all non-cash items excluded in the settlement.
- c. None, for the reasons cited in response to part (b).

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WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen

QUESTION No. 4

Page 1 of 1

Refer to the Kollen Testimony, page 46. Confirm that the proposed adjustment only removes company-provided 401 (k) contributions for employees that also participate in company-funded defined benefit pension plans.

RESPONSE:

Confirmed, based on the Company's response to Staff 2-24(e), which specifically requested that information.

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WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen

QUESTION No. 5

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Refer to the Kollen Testimony, page 47, lines 17-21. Confirm that no adjustment was made to reflect the impact of the TCJA from affiliate charges.

RESPONSE:

Confirmed.

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WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen

QUESTION No. 6

Page 1 of 1

Refer to the Kollen Testimony, page 48 and Attachment Atmos_Rev_Req_-_AG_Recommendation.xlsx, Tab Tax Rate Change 21%.

- a. Provide justification for the selected 20-year amortization period.
- b. Explain why the Negative Deferred Income Tax Expense (Amortization) is only grossed up for federal income taxes.

RESPONSE:

- a. This was a proxy for the actual ARAM rate, which only Atmos can calculate and provide. The Company is required to use the ARAM rate for protected excess ADIT, which Company Witness Story limits to life and method temporary differences in her testimony in Case No. 2017-00481. The Commission should reflect the Company's ARAM, assuming that it is correctly calculated and applied only to the protected excess ADIT. The Commission has discretion as to the amortization period for all unprotected excess ADIT.
- b. This was done to isolate the effect on the reduction in federal income tax expense. However, it would be reasonable to use the gross-up factor for the combined federal and state income tax rate for this purpose. Presumably, the Company will reflect the differential in the combined federal and state income tax rate through the before and after gross revenue conversion factors in its rebuttal testimony.

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WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen

QUESTION No. 7

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Refer to the Kollen Testimony, pages 53 and 54. Explain how a ten-year amortization period was determined.

RESPONSE:

This was a matter of judgment. The Company did not reflect a new debt issue to replace the 8.5% issue maturing in mid-March 2019 in its weighted cost of debt. Mr. Baudino assumed that Atmos would issue new debt when the old issue retired and assumed that it would have an effective interest rate of 4.0%. That debt likely will have a term of 10 years to 30 years. It would be appropriate to amortize the deferred interest over the term of the new debt issue. Mr. Kollen used the shortest likely term for that new debt.

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WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen

QUESTION No. 8

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Refer to the Kollen Testimony, page 55, footnote 48.

- a. Identify the various concerns with Atmos's current depreciation rates.
- b. Explain why only the concern about the net salvage value approach is addressed in this proceeding.

RESPONSE:

a, b. In addition to the net salvage issue, Mr. Kollen is concerned with the use of the ELG procedure. This tends to increase depreciation rates and accelerate depreciation expense compared to the ALG procedure. Mr. Kollen did not have the ability to calculate the ALG depreciation rates in this proceeding. The Company refused to provide them for the study used for the present depreciation rates in response to AG discovery in this proceeding. Further, Mr. Kollen is concerned with the use of the actual retirement history used to develop the survivor curves reflected in the present depreciation rates given the accelerated retirement of plant due to the PRP. The accelerated retirement history likely does not provide a reasonable proxy for future retirements.

WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen

QUESTION No. 9

Page 1 of 2

Refer to the Kollen Testimony regarding the proposed Annual Review Mechanism ("ARM") beginning on page 66.

- a. To the extent Mr. Kollen is familiar with alternative regulation mechanisms in other jurisdictions, provide a discussion of those mechanisms and state whether there are mechanisms which are reasonable and provide benefits to the customers as well as the utilities.
- b. State whether there are safeguards which could be incorporated into the proposed ARM which would address the Attorney General's concerns.

RESPONSE:

- a. The Company's proposed ARM is a comprehensive formula rate plan that annually resets rates based on forecast revenues and costs, subject to a true-up to actual costs for the forecast of revenues and costs in the prior period. This is the most aggressive retail formula rate plan that Mr. Kollen has seen. In other retail jurisdictions with formula rate plans, there typically is a historic test year and an upper and lower earnings deadband, with a rate adjustment in whole (no sharing) or part (sharing) either to increase rates to the lower threshold or reduce rates to the upper threshold.
- b. Mr. Kollen's response to this question should not be construed as a waiver of his Direct Testimony opposing the ARM. Although there are safeguards that could be incorporated, they nonetheless cannot overcome the fundamental problems with such a comprehensive formula rate plan, as discussed by Mr. Kollen in his Direct Testimony. Mr. Kollen believes one or more of the following measures could potentially mitigate these fundamental problems: (a) Limit the filing of the formula rate plan to every *other* year rather than annually so that ratepayers receive the benefit of regulatory lag, which incentivizes a utility to reduce, or at least minimize increases in, operating costs. The ARM proposed by Atmos would eliminate regulatory lag, and replace it with a guarantee for cost recovery, not just an opportunity such as is provided in Kentucky's current ratemaking structure; (b) Require the use of a historic test year instead of a forecast test year. This would retain, at least temporarily in one year intervals, the behavioral incentives to control costs inherent in the traditional base ratemaking process; (c) Limit the annual increases to the rate of inflation, perhaps 2% or 3%, which would not be cumulative. The utility would have to file a

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traditional base rate case to exceed this annual limit; (d) Preserve the ability of the Staff, AG, and any other Intervenor to address any and all issues in the annual review proceeding with full discovery rights and the ability to file testimony or in some other manner communicate their concerns to the Commission for resolution; and (e) Limit non-gas O&M expense increases to no more than the rate of inflation or inflation less a labor productivity improvement. Nevertheless, Mr. Kollen recommends the Commission deny the proposed ARM.

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WITNESS/RESPONDENT RESPONSIBLE:

Lane Kollen

QUESTION No. 10

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Refer to the Kollen Testimony, pages 75-76.

- a. Confirm that despite the proposed increase of 400 percent in the R&D Rider revenues, the impact on the average monthly residential bill, according to Atmos's customer notice, is 7 cents or 0.13 percent.
- b. Explain why Atmos's Kentucky customers do not benefit in a practical way from advances in natural gas distribution and operational technology, for example those that decrease pipeline damage and leaks.

RESPONSE:

- a. Confirmed.
- b. At best, this is an indirect benefit.

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WITNESS/RESPONDENT RESPONSIBLE:

Richard A. Baudino

QUESTION No. 11

Page 1 of 1

Refer to the Direct Testimony of Richard A. Baudino ("Baudino Testimony"), page 29, regarding Atmos's cost of short-term debt and Atmos's Response to Commission Staff's Second Request for Information, Item 36. Given Atmos's response, explain the characterization of commitment fees as "fixed" or "largely fixed."

RESPONSE:

The level of commitment fees included by Atmos is indeed largely fixed in this rate proceeding based on the calculation explained in Atmos' response to Staff's Second Request for Information, Item 36. This response does not affect Mr. Baudino's reasons for excluding the commitment fees from short-term debt cost and including them in O&M expenses.

WITNESS/RESPONDENT RESPONSIBLE:

Richard A. Baudino

QUESTION No. 12

Page 1 of 1

Refer to the Baudino Testimony, page 5, lines 4-18.

- a. The spread between the 20-year Treasury Bond yield and average public utility bond yield has declined from 1.73 basis points in 2008 to 1.21 basis points in 2017. Provide an explanation of why the spread between the two bonds has been declining as interest rates decline.
- b. Provide the most current public utility bond yield.
- c. Provide the most current 20-year Treasury bond yield.

RESPONSE:

- a. Mr. Baudino did not perform a specific analysis on the decline in the basis point spread between 20-Year Treasury bonds and the average public utility bond. Such spreads generally are dependent on market conditions at the time and investors' perceptions of the relative risks between Treasuries and utility bonds.
- b. According to Moody's Credit Trends, as of February 2, 2018 the average public utility bond yield was 4.09%.
- c. According to the Federal Reserve, as of February 1, 2018 the 20-Year constant maturity Treasury bond yield was 2.90%.

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WITNESS/RESPONDENT RESPONSIBLE:

Richard A. Baudino

QUESTION No. 13

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Refer to the Baudino Testimony, page 14, lines 15-21. Mr. Baudino states that utilities face three major risks: business risk, financial risk, and liquidity risk. Provide the level of business, financial, and liquidity risk that Mr. Baudino believes Atmos faces.

RESPONSE:

Mr. Baudino assumed that the gas proxy group he used is reasonably reflective of the total risk of Atmos' regulated Kentucky operations. Mr. Baudino did not specifically quantify the levels of business, financial, and liquidity risk for Atmos because such a quantification was not necessary for his ROE analysis in this proceeding.

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WITNESS/RESPONDENT RESPONSIBLE:

Richard A. Baudino

QUESTION No. 14

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In Case No. 2016-00371, in an Order entered June 22, 2017, the Commission approved a return on equity ("ROE") of 9.7 percent for Louisville Gas and Electric Company.² Explain whether economic conditions in Atmos's service territory are sufficiently different from those in LG&E's gas service territory for the Commission reasonably to approve an ROE of 8.8 percent for Atmos.

RESPONSE:

Mr. Baudino's recommendation in this case is based on his evaluation of current market conditions and his recommendation of 8.8% for Atmos reflects those conditions. Mr. Baudino's ROE recommendation for LGE in 2016-00371 was 9.0%, which is quite close to his recommendation in this case. In Case No. 2016-00371 the Commission Order reflected the modification of a stipulated ROE number, which was 9.75%.

² Case No. 2016-00371, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates and for Certificates of Public Convenience and Necessity* (Ky. PSC June 22, 2017).

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WITNESS/RESPONDENT RESPONSIBLE:
Richard A. Baudino / Counsel as to Objection

QUESTION No. 15
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Refer to the Baudino Testimony, page 29, lines 15-19 and page 30, lines 1-6.

- a. Explain whether Atmos included commitment fees in the cost of short-term debt in past rate cases.
- b. If confirmed, explain whether the AG recommended their exclusion in past rate cases.

RESPONSE:

- a. Yes, Atmos included commitment fees in its last base rate case filing in Case No. 2015-00343. Mr. Baudino does not know whether Atmos included these fees in rate case filings prior to its last base rate case.
- b. Objection, to the extent that this data request requests the opinion of the Attorney General and not Mr. Baudino, as attorneys are precluded under legal rules of ethics from providing testimony. Without waiving this objection, Mr. Baudino states, please refer to Atmos' Rebuttal Testimony from Mr. Waller in Case No. 2015-00343. Mr. Waller recommended inclusion of the commitment fees.

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WITNESS/RESPONDENT RESPONSIBLE:
Richard A. Baudino / Counsel as to Objection

QUESTION No. 16
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Refer to the Baudino Testimony, page 30, lines 9-19. Explain why it is reasonable to include a long-term debt cost based on a forecasted interest rate, especially when the AG advocates rejecting any forecasted model inputs.

RESPONSE:

Mr. Baudino's recommended long-term debt cost of 4.0% was consistent with current average public utility bond yields at the time he filed his testimony. Mr. Baudino did not use a forecasted utility bond yield for his recommendation. Objection, to the extent that this data request requests the opinion of the Attorney General and not Mr. Baudino, as attorneys are precluded under legal rules of ethics from providing testimony.

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WITNESS/RESPONDENT RESPONSIBLE:

Richard A. Baudino

QUESTION No. 17

Page 1 of 1

Refer to the Baudino Testimony. Provide all exhibits in Excel spreadsheet format with all formulas intact and unprotected and all rows and columns accessible.

RESPONSE:

Please refer to the response to Atmos' Question No. 45.

AFFIDAVIT

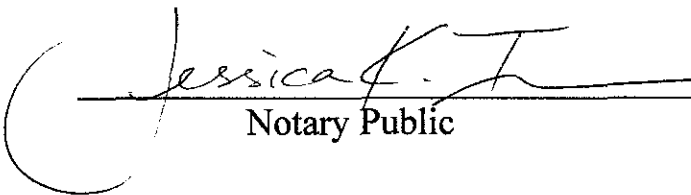
STATE OF GEORGIA)

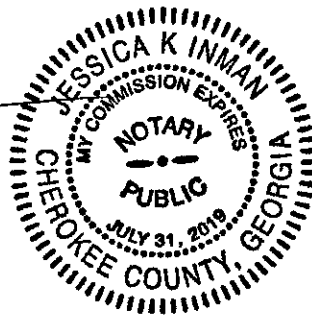
COUNTY OF FULTON)

RICHARD A. BAUDINO, being duly sworn, deposes and states: that the attached is his sworn testimony and that the statements contained are true and correct to the best of his knowledge, information and belief.


Richard A. Baudino

Sworn to and subscribed before me on this
13th day of February 2018.


Notary Public



AFFIDAVIT

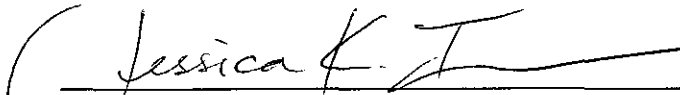
STATE OF GEORGIA)

COUNTY OF FULTON)

LANE KOLLEN, being duly sworn, deposes and states: that the attached is his sworn testimony and that the statements contained are true and correct to the best of his knowledge, information and belief.


Lane Kollen

Sworn to and subscribed before me on this
13th day of February 2018.


Notary Public

