

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF ATMOS)
ENERGY CORPORATION FOR AN)
ADJUSTMENT OF RATES) Case No. 2018-00281

**Atmos Energy's Response To Attorney General's Reply To
Atmos Energy's Response To
The Attorney General's Motion To Compel Discovery**

Atmos Energy Corporation (Atmos Energy), by counsel, responds to the reply to the response to the motion to compel filed by the Attorney General on January 2, 2019 (Reply to Response).¹

In the instant filing, Atmos Energy would like to point out four things:

1. The Reply to Response did not indicate that the Attorney's General's witness cannot perform the requested study. If the requested study is "the most commonly used methodology,"² it would seem that the Attorney General's witness should be able to perform it or the Attorney General should be able to locate some other party capable of performing it.
2. The Reply to Response claims that failing to grant the Attorney Generals' Motion to Compel would, "set an unacceptable precedent, in allowing a regulated entity in tunnel-vision like manner to control the evidentiary record."³
Atmos Energy has never objected to the requested information being placed

¹ Atmos Energy respectfully requests leave to submit this answer to correct the record and aid the Commission's decision-making process. The Commission is permitted to accept answers for such purposes.

² Reply to Response at 2.

³ *Id.* at 3.

in the evidentiary record.⁴ Rather Atmos Energy has objected to being required to incur the expense to prepare and create evidence that is solely for the purpose of assisting the Attorney General in proving its case.

3. In Atmos Energy's last rate proceeding, the Attorney General argued that Atmos Energy should be denied recovery of its rate case expenses.⁵ It seems improper for the Attorney General to simultaneously compel Atmos Energy to perform studies that Atmos Energy had not conducted and incur thousands of additional dollars of rate case expenses while also arguing that Atmos Energy should not be allowed to recover its rate case expenses.
4. Finally, the Attorney General complains of Atmos' reliance on "legal gymnastics" to support his objection to discovery. Yet, when those same arguments support the Attorney General's position, he relies on them as the Commission observed in "Application of Kentucky American Water Company for An Adjustment of Rates, Case No. 2015-0418. Order of July 17, 2016, p. 2:

The Attorney General, while noting that "the Commission is not bound by the technical rules of legal evidence," asserted that the Commission should consider the Kentucky Rules of Civil Procedure in adjudicating this discovery dispute."

If the Attorney General wants to perform the analysis it has requested of Atmos Energy and place it in the record in this proceeding, he is free to do so. However, as Atmos Energy has previously stated, because the Attorney General has not and cannot

⁴ Atmos Energy did not object on the grounds of relevance. Rather, Atmos Energy objected to the relevant subpart of AG Question No. 1-30 on the grounds that it was "unduly burdensome and calls for the Company to undertake an analysis and calculation that it has not performed in relation to a depreciation methodology that the Company has not proposed and does not support."

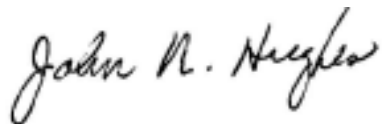
⁵ See, e.g., *In Re: Application of Atmos Energy Corporation for an Adjustment of Rates and Tariff Modification*, Case No. 2017-00349, *Direct Testimony and Exhibits of Lane Kollen* (Ky. PSC Jan. 17, 2018) at 38.

provide any legal support for his effort to compel Atmos Energy to produce a study it does not have, whereas the Company has cited several supporting cases, the Commission should deny the motion.

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Certification:

I certify that this is a true and accurate copy of the documents to be filed in paper medium; that the electronic filing was transmitted to the Commission on January 3, 2019; that one copy of the filing will be delivered to the Commission within two days; and that no party has been excused from participation by electronic means.