ATMOS ENERGY CORPORATION

Kevin C. Frank
Senior Attorney
Atmos Energy Corporation
5430 LBJ Fwy, Suite 1800
Dallas, TX 75240

VIA ELECTRONIC MAIL

March 25, 2021

Ms. Linda Birdwell
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
PO Box 615
Frankfort, Kentucky 40602

RE: Atmos Energy Corporation – Case No. 2020-00289

Dear Executive Director Bridwell:

Atmos Energy Corporation submits the accompanying Brief.

Please feel free to contact me at 214.906.9827 if you have any questions and/or need any additional information about this matter.

Sincerely,

Kevin C Frank

Kevin C. Frank
Senior Attorney
Atmos Energy Corporation

BEFORE THE PUBLIC SERVICE COMMISSION

COMMONWEALTH OF KENTUCKY

ELECTRONIC REQUEST OF ATMOS ENERGY	**)**	
FOR MODIFICATION AND EXTENSION OF ITS	**)**	**CASE NO. 2020-00289**
GAS COST ADJUSTMENT PERFORMANCE BASED	**)**	
RATEMAKING MECHANISM	**)**	

BRIEF OF ATMOS ENERGY CORPORATION

A. History of Proceeding

On August 31, 2020, Atmos Energy Corporation ("Atmos Energy" or "Company") filed a motion ("Aug. 31 Motion") to modify and extend its existing Performance Based Ratemaking Mechanism ("PBR Mechanism") along with its report of the performance of its PBR Mechanism from June 2016 through May 2020 ("PBR Report"). At the time that Atmos Energy filed the Aug. 31 Motion, it had no way of knowing that the Kentucky Public Service Commission ("Commission") would issue an order on October 26, 2020 in Case No. 2019-00437, a Louisville Gas and Electric proceeding, that would signal the Commission's intent to take "consistent action with regard to gas cost PBR mechanisms for the three local distribution companies."[1] Since Atmos Energy was not aware of the Commission's intent at the time it filed the Aug. 31 Motion, it did not have the opportunity to file Direct Testimony on the specific issues listed by the Commission in its Order issued on October 26, 2020 in Case No. 2019-00437.

The Commission Staff and the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention ("Attorney General") each propounded two sets of discovery questions on Atmos Energy. The Company timely filed its responses to discovery,

[1] See Order dated October 26, 2020 in Case No. 2019-00437, *Electronic Application of Louisville Gas and Electric Company for Renewal and Proposed Modification of its Performance-Based Ratemaking Mechanism* ("LG&E Order") at p. 9.

explaining that the current PBR Mechanism strikes the right balance to incentivize the Company to take on appropriate risk and generate savings to reduce costs for customers. Given the lack of Direct Testimony, there was no Answering Testimony or Rebuttal Testimony filed in this Case. The only record evidence in this proceeding is the Company's Aug. 31 Motion, the PBR Report, and the Company's filed responses to discovery.

On March 22, 2021, the Commission granted a joint motion of Atmos Energy and the Attorney General regarding submission of the case and a motion to file briefs ("March 22 Order"). The March 22 Order also stated that the Commission "may take additional evidence in this matter through written requests for information or at a hearing set pursuant to a subsequent order." This brief is submitted in accordance with the March 22 Order.

B. PBR Mechanism Operation

The actual PBR Mechanism is fully explained in the Company's Tariff. The PBR Mechanism consists of three distinct components: (1) commodity costs (GAIF); (2) transportation costs (TIF); and (3) off-system sales transactions (OSSIF). The PBR Mechanism functions by benchmarking commodity costs and transportation costs, and then allocating the differences between actual costs and the benchmarks between the Company and its customers.

When actual gas costs are less than the established benchmark, Atmos Energy and customers share in the savings through two established tiers. The first tier is savings up to 2% of total gas cost, for which Atmos Energy shares 30%. The second tier is savings greater than 2% of total gas costs, for which Atmos Energy shares 50%. The shared savings are the incentives the PBR creates for Atmos Energy. When actual gas costs are greater than the established benchmark, Atmos Energy and customers share in the excess costs, applying the same two tiers and sharing percentages. This represents the potential risks of the PBR Mechanism to the Company.

a. PBR Mechanism Components[2]

These components are described in great detail within the Atmos Energy Tariff, but practical descriptions follow:

The GAIF is the Gas Commodity Cost component mechanism, which includes base load purchases, swing purchases and fixed asset management discounts. The benchmark for baseload purchases are the average of Inside Federal Energy Regulatory Commission ("FERC") Index price and New York Mercantile Exchange (NYMEX); the benchmark for swing purchases are the Gas Daily Index midpoints.[3]

The TIF is the Transportation Cost component mechanism, which includes natural gas transportation services, both pipeline demand and volumetric costs and all applicable FERC approved surcharges. The benchmark for pipeline demand costs is the tariffed Pipeline Demand Rate multiplied by the Demand Quantities contracted for by the Company from the applicable transportation provider. The benchmark for the pipeline volumetric costs is the tariffed Pipeline Commodity Rate multiplied by Actual Volumes delivered at Company's city gate by the applicable transportation provider. The Actual Transportation Costs (TAATC) paid by Company for the PBR period shall include both pipeline demand and volumetric costs associated with natural gas pipeline transportation services as well as all applicable FERC approved surcharges, direct bills included in surcharges and direct bills, less actual capacity release credits.

The OSSIF is the Off-system Sales component mechanism, which includes total revenue associated with off-system sales and storage service transactions less the out-of-pocket costs associated with off-system sales and storage service transactions, as more fully defined in the Atmos Tariff.

---

[2] Capitalized terms not defined herein have the same meanings as in the Atmos Energy Tariff.
[3] Atmos Energy Tariff at First Revised Sheet Nos. 20-22 and 24-25.

b. Use of PBR Mechanism Components

As described in the PBR Report, Atmos Energy has responded to the incentives contained in the PBR Mechanism by adopting an innovative approach to the Gas Commodity Cost component of the PBR Mechanism.[4] Atmos Energy's Gas Supply Planning Department constantly studies the markets and interstate systems and the availability of capacity at receipt locations that provide the best opportunities for generating savings.[5] Atmos Energy has developed a methodology of entering into "full requirements" arrangements with asset managers who were selected based on a competitive bids in a confidential Request For Proposals process to generate significant gas cost savings.[6]

Atmos Energy has also adopted an innovative approach to the Transportation Cost component of the PBR Mechanism.[7] This approach involves working with transportation providers to qualify for discounts under FERC's discounting policy.[8] The Company has also been able to segment capacity in order to effectively reduce demand charges.[9]

Atmos Energy has not made recent systematic use of the Off-system Sales component.[10] Atmos Energy stated that the Off-system Sales component should be retained because Off-system Sales and Capacity Releases are activities that occur in response to market forces, and it would not be practical or even possible to request regulatory approval and to reinstitute those mechanisms in a timely manner when such opportunities arise.[11]

---

4 PBR Report at 2-4.
5 Response to Staff DR No. 1-02.
6 PBR Report at 2-3.
7 PBR Report at 4-6.
8 Response to Staff DR No. 1-09.
9 PBR Report at 5.
10 Response to AG DR No. 2-05.
11 Response to Staff DR No. 1-02.

c. How the PBR Mechanism Balances Risks and Incentives to Achieve Savings

While the methods that the Company employs to achieve savings can be replicated from year to year, they are not automatic nor are they riskless. As the record indicates, the Company's decision to segment capacity to generate savings against benchmarked transportation costs under the PBR Mechanism exposes the Company to greater risk at its segmented receipt point than it would otherwise be willing to undertake.[12] Similarly, when evaluating potential pipeline transportation contracts, the Gas Supply Planning Department has to balance the potential tradeoff in enhanced Asset Management value with the liquidity and pricing of gas supply at various receipt points.[13] In the absence of the PBR Mechanism, there would be no analysis of a balancing of incentives versus risks to perform. The Gas Supply Planning Department would select receipt points in accordance with the "least cost acquisition" standard, based on cost and reliability, which, while less risky, could be more costly for customers.[14]

The current PBR Mechanism strikes the right balance to incentivize the Company to take on greater price risk and generate greater savings.[15] The PBR Mechanism's historical performance demonstrates that it effectively incentivizes the Company to continuously seek savings and reduce costs.[16] The Company's contracting decisions under the "least cost acquisition" standard would result in different outcomes for gas costs, transportation costs, and asset management transactions.

C. PBR Mechanism Performance

Given its lengthy 22-year history, it is easy to "cherry-pick" moments when the PBR Mechanism generated lesser or greater savings than it does at the current time. Similarly, it is easy

[12] Response to Staff DR No. 2-04.
[13] Response to Staff DR No. 1-04.
[14] Response to Staff DR No. 1-06.
[15] Response to AG DR No. 1-24.
[16] Response to Staff DR No. 2-02.

to single out individual parts of the PBR Mechanism as "better" or "worse" today than they were at some point in the past.[17] While the gas and transportation markets will continue to change over time, the PBR Mechanism still works, as evidenced by measurable savings totaling $28,000,000 over the four-year period of June 2016 through May 2020, with the majority of those savings going to customers.[18] Since its inception, the PBR Mechanism has generated savings of approximately $104,000,000.[19]

D. Conclusion

It is inarguable that the PBR Mechanism has generated savings against the benchmark targets set by the Commission since its inception.[20] While the Company believes that it can now better manage certain aspects of supply risk than it could at the PBR Mechanism's inception, gas supply markets remain volatile.[21] Additionally, under the PBR Mechanism there are still other significant risks besides supply risk for the Company.[22]

Atmos Energy stated that that if an external event occurs, such as an Order or rulemaking of the FERC, which clearly and uncontrollably affects the benchmarks or some other aspect of the PBR Mechanism, Atmos Energy and the Commission should reserve the right to modify or terminate the program.[23] Atmos Energy still considers this an important consideration for the PBR Mechanism.

Atmos Energy initially proposed extending its PBR Mechanism for a term of five years.[24] However, given the Commission's stated desire to take "consistent action" with regards to the

---

[17] Response to AG DR No. 2-06.
[18] PBR Report at 7.
[19] *Id*.
[20] *Id*.
[21] Response to Staff DR No. 1-04.
[22] Response to Staff DR No. 1-03.
[23] PBR Report at 8.
[24] Aug. 31 Motion

three local distribution companies with PBR Mechanisms,[25] the Company recognizes that a different term may be required. To the extent that the Commission seeks to standardize the terms of different companies' PBR Mechanisms, Atmos Energy asks that it be mindful of the need to deliberately transition any changes in starting dates to ensure that accurate accounting of the PBR Mechanisms. Many of the terms of Atmos Energy's existing arrangements with asset managers were designed to work with the existing PBR Mechanism. Atmos Energy cannot unilaterally revise the pricing terms of its supply contracts until they are replaced.

Dated: March 25, 2021

Respectfully submitted,

Mark R. Hutchinson

WILSON, HUTCHINSON &
LITTLEPAGE
611 Frederica Street
Owensboro, Kentucky 42301
(270) 926-5011
randy@whplawfirm.com

John N. Hughes

124 West Todd Street
Frankfort, KY 40601
502-227-7270
jnhughes@johnnhughespsc.com

Attorneys for Atmos Energy Corporation

[25] LG&E Order at 9.

CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing is a true and accurate copy of the document being filed in paper medium; that the electronic filing was transmitted to the Commission on March 25, 21; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and the original filing in paper medium will be delivered to the Commission pending further instruction from Case No. 2020-00085:

John N. Hughes

124 West Todd Street
Frankfort, KY 40601
502-227-7270
jnhughes@johnnhughespsc.com