

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.
APPROVAL OF TARIFF REVISIONS; AND OTHER)	2024-00276
GENERAL RELIEF)	

ATTORNEY GENERAL’S SUPPLEMENTAL DATA REQUESTS

The intervenor, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention [“OAG”], hereby submits the following Supplemental Data Requests to Atmos Energy Corporation [“Atmos” or “the Company”], to be answered by the date specified in the Commission’s Orders of Procedure, and in accord with the following:

- (1) In each case where a request seeks data provided in response to a staff request, reference to the appropriate request item will be deemed a satisfactory response.
- (2) Identify the witness who will be prepared to answer questions concerning each request.
- (3) Repeat the question to which each response is intended to refer. The OAG can provide counsel for Atmos with an electronic version of these questions, upon request.
- (4) These requests shall be deemed continuing so as to require further and supplemental responses if the Company receives or generates additional information within the scope of these requests between the time of the response and the time of any hearing conducted hereon.
- (5) Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person’s knowledge, information, and belief formed after a reasonable inquiry.

(6) If you believe any request appears confusing, request clarification directly from counsel for OAG.

(7) To the extent that the specific document, workpaper or information as requested does not exist, but a similar document, workpaper or information does exist, provide the similar document, workpaper, or information.

(8) To the extent that any request may be answered by way of a computer printout, identify each variable contained in the printout which would not be self-evident to a person not familiar with the printout.

(9) If the Company has objections to any request on the grounds that the requested information is proprietary in nature, or for any other reason, notify OAG as soon as possible.

(10) As used herein, the words “document” or “documents” are to be construed broadly and shall mean the original of the same (and all non-identical copies or drafts thereof) and if the original is not available, the best copy available. These terms shall include all information recorded in any written, graphic or other tangible form and shall include, without limiting the generality of the foregoing, all reports; memoranda; books or notebooks; written or recorded statements, interviews, affidavits and depositions; all letters or correspondence; telegrams, cables and telex messages; contracts, leases, insurance policies or other agreements; warnings and caution/hazard notices or labels; mechanical and electronic recordings and all information so stored, or transcripts of such recordings; calendars, appointment books, schedules, agendas and diary entries; notes or memoranda of conversations (telephonic or otherwise), meetings or conferences; legal pleadings and transcripts of legal proceedings; maps, models, charts, diagrams, graphs and other demonstrative materials; financial statements, annual reports, balance sheets and other accounting records; quotations or offers;

bulletins, newsletters, pamphlets, brochures and all other similar publications; summaries or compilations of data; deeds, titles, or other instruments of ownership; blueprints and specifications; manuals, guidelines, regulations, procedures, policies and instructional materials of any type; photographs or pictures, film, microfilm and microfiche; videotapes; articles; announcements and notices of any type; surveys, studies, evaluations, tests and all research and development (R&D) materials; newspaper clippings and press releases; time cards, employee schedules or rosters, and other payroll records; cancelled checks, invoices, bills and receipts; and writings of any kind and all other tangible things upon which any handwriting, typing, printing, drawings, representations, graphic matter, magnetic or electrical impulses, or other forms of communication are recorded or produced, including audio and video recordings, computer stored information (whether or not in printout form), computer-readable media or other electronically maintained or transmitted information regardless of the media or format in which they are stored, and all other rough drafts, revised drafts (including all handwritten notes or other marks on the same) and copies of documents as hereinbefore defined by whatever means made.

(11) For any document withheld on the basis of privilege, state the following: date; author; addressee; indicated or blind copies; all persons to whom distributed, shown, or explained; and, the nature and legal basis for the privilege asserted.

(12) In the event any document called for has been destroyed or transferred beyond the control of the Company, state: the identity of the person by whom it was destroyed or transferred, and the person authorizing the destruction or transfer; the time, place, and method of destruction or transfer; and, the reason(s) for its destruction or transfer. If destroyed or disposed of by operation of a retention policy, state the retention policy.

(13) Provide written responses, together with any and all exhibits pertaining thereto, in one or more bound volumes, separately indexed and tabbed by each response, in compliance with Kentucky Public Service Commission Regulations.

(14) “And” and “or” should be considered to be both conjunctive and disjunctive, unless specifically stated otherwise.

(15) “Each” and “any” should be considered to be both singular and plural, unless specifically stated otherwise.

Respectfully submitted,

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ATTORNEY GENERAL



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Certificate of Service

Pursuant to the Commission’s Order dated July 22, 2021 in Case No. 2020-00085, and in accord with all other applicable law, Counsel certifies that an electronic copy of the forgoing was served and filed by e-mail to the parties of record.

This 16th day of December, 2024



Assistant Attorney General

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1. Refer to the response to Staff 1-38 in regards to the two merit increases during fiscal 2024, one on October 1, 2024 and the other effective June 8, 2024.
 - a. Explain all reasons for the second fiscal year 2024 merit increase of 3.0% effective June 8, 2024.
 - b. Confirm that the second fiscal year 2024 merit increase applied to all employees at all divisions in which costs are directly charged or allocated to Atmos-KY. If not confirmed, explain why not.

2. Refer to the question and response to AG 1-74 and to Exhibit GWK-3 in regards to the labor, benefits, and employee welfare O&M cost elements for the projected test year ended March 31, 2026, the actual and projected base year ended December 31, 2024 and for the actual fiscal year ended September 30, 2024. The sum of O&M expenses for these three cost elements for the base year was \$17,823,547. The sum of O&M expenses for these three cost elements for the actual fiscal year ended September 30, 2024 was \$16,700,070.
 - a. Explain all reasons why the actual 2024 fiscal year expenses were so much lower than the actual and projected base year expenses. Include as part of the response the quantified effects of the second fiscal year 2024 merit increase of 3.0% effective June 8, 2024 for the last three months of calendar year 2024.
 - b. Provide the amount of vacant positions for each division applicable to Atmos KY as of September 30, 2022, September 30, 2023 and September 30, 2024.
 - c. Indicate whether the base year or test year projections were based on full employment or whether provisions were made for potential vacant positions. If such provisions were made, describe them.
 - d. Indicate all known reasons why the actual benefits expense was only \$1,925,731 during the 2024 fiscal year and how they are expected to more than double in the test year to \$3,908,255.

3. Refer to the response to AG 1-86 in regards to general ledger data for ad valorem costs for Kentucky Division 009 for fiscal years 2022, 2023, and 2024.
 - a. Explain all reasons for the large negative adjustment to ad valorem expense recorded in September 2023.
 - b. Provide a copy of the journal entry and all supporting documentation used to record the large negative adjustment to ad valorem expense in September 2023.

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- c. Provide a copy of the journal entry and all supporting documentation used to record the expense amount of \$117,400 in February 2024.
 - d. Explain all reasons why the monthly ad valorem tax accrual for Kentucky Division 009 increased from only \$857,500 per month during the first eight months of calendar year 2023 to \$1,117,400 for eight of the nine months listed during calendar year 2024, which represents an increase of 30.3%.
4. Refer to the trial balances for the Kentucky Division attached to the response to AG 1-30 and specifically to account 2360 (Taxes accrued) sub account 25201 (Ad Valorem Tax). For each of the calendar years 2021 through 2024 (with the most current month with data available), provide the monthly activity in this account/subaccount to reflect the beginning balance, expense accruals, expense adjustments, ad valorem tax payments, and ending balances.
 5. Refer to the response to AG 1-88 in regards to the analyses performed of property taxes by year. Provide copies of the analyses created for the FY 2024 budget and for the FY 2025 budget for Kentucky Division 009.
 6. Provide the amounts and dates of each actual ad valorem tax payment made during each calendar year 2022, 2023, and 2024 for each taxing authority for Kentucky Division 009, identifying the tax year to which each payment was applicable.
 7. Refer to the response to AG 1-24. The question asked the Company to "Provide all support for that claim, along with a list of each such project that was denied funding, and each such customer that was denied service to support its growth. If none, then so state." The response did not provide any evidentiary support for that claim and did not provide a list of each project denied funding and each customer denied service, or if none, the response failed to state none. Provide the information requested or, if none, then so state.
 8. Refer to the response to AG 1-38. The question asked: "Confirm the Company agrees that the NOL ADIT normalization requirements apply *only* to method/life temporary differences on the margin used in the calculation of taxable losses in each tax year that contributed to the NOL ADIT." (emphasis added).

The response stated: "The Company agrees that the NOL ADIT normalization requirements apply to method/life temporary differences on margin used in the calculation of taxable losses in each tax year that contributed to the NOL ADIT."

The response failed to answer the question posed, which addresses whether the normalization requirements apply *only* to method/life depreciation temporary differences. Respond to the question posed with a confirmed or denied. If denied, provide all support found in the IRC of 1986, Treasury Regulations, or any other authoritative source relied on for your response that the normalization requirements

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apply to any temporary differences other than method/life differences. In addition, then list out each of the additional temporary differences and provide all support relied on to conclude that the normalization requirements apply to each of these additional temporary differences.

9. Refer to Witness Multer's Direct Testimony in Case No. 2023-00231, at 6-7, wherein he states: "Based on Internal Revenue Code ("IRC") section 168(f)(2), 168(i)(9) and 1.167(I)-1, decreasing taxpayer's rate base by the full amount of its ADIT account balance without reducing it by the taxpayer's NOLC-related account balance would be a violation of the normalization rules. . . Accelerated tax depreciation is subject to the IRC normalization provisions. . . Cumulative NOLC [net operating loss carryforward] which is the result of accelerated depreciation is likewise subject to normalization rules. . . Determination of NOLC attributable to accelerated depreciation must be determined using a last dollar deducted methodology."
 - a. Confirm that a more accurate and complete statement would be "Based on Internal Revenue Code ("IRC") section 168(f)(2), 168(i)(9) and 1.167(I)-1, decreasing taxpayer's rate base by the full amount of its ADIT account balance without reducing it by the taxpayer's NOLC-related account balance *resulting from accelerated tax depreciation in excess of straight-line tax depreciation* would be a violation of the normalization rules." If denied, then provide all authoritative support relied on for your position.
 - b. Confirm that a more accurate and complete statement would be "Accelerated tax depreciation *in excess of straight line tax depreciation* is subject to the normalization provisions . . . Cumulative NOLC [net operating loss carryforward] which is the result of accelerated tax depreciation *in excess of straight line tax depreciation* is likewise subject to normalization rules . . . Determination of NOLC attributable to accelerated depreciation *in excess of straight line tax depreciation* must be determined using a last dollar deducted methodology." If denied, then provide all authoritative support relied on for your position.
 - c. Confirm that the DTL due to accelerated depreciation is based solely on method/life temporary differences using the same tax basis for both the accelerated tax depreciation and straight-line tax depreciation calculations and is equal to accelerated tax depreciation less straight-line tax depreciation times the income tax rate. If denied, then provide all authoritative support for your position.
 - d. Refer to part (c) of this question. Confirm that the DTL is not simply the accelerated tax depreciation times the income tax rate. If denied, then provide all authoritative support relied on for your position.

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10. Refer to the Commission's Order dated Sept. 29, 2023, in Case No. 2023-00231 at 7-8 wherein the Commission states:

“Atmos’s explanation of how the normalization rules would apply to its ADIT was also materially incomplete. The bulk of the ADIT liability that Atmos projected would be generated during its 2023 and 2024 fiscal years was booked in account FXA01 and represents book-tax differences in the original cost, or basis, of pipeline replacement projects arising from repair deductions made for tax but not book purposes.” [Note: original footnote 20 from this Commission Order in Case No. 2023-00231 is pasted in below.]¹

“Normalization rules only apply to ADIT arising from accelerated tax depreciation, and the IRS has specifically stated that normalization rules do not apply to ADIT associated with repair deductions. [Note: original footnote 21 from this Commission Order is pasted in below.]² Thus, the bulk of the ADIT generated in Atmos’s 2023 and 2024 fiscal years would not be subject to normalization rules, and therefore, it would not be necessary to include NOL ADIT, if any, offsetting that ADIT liability to avoid a normalization violation.”

- a. Confirm that the DTL related to the repair allowance deduction is not subject to the normalization rules. If denied, then provide all authoritative support relied on for your position and cite and provide a copy of each reference to the IRC of 1986, Treasury Regulations and/or all other authoritative support.
- b. Confirm that the repair allowance deductions are reflected in account FXA01. Identify and describe each other temporary differences that is reflected in account FXA01. In addition, describe the source of each temporary difference and how it was/is calculated. Further, confirm the Company’s fixed asset system is sufficiently detailed that each of the temporary differences aggregated into FXA01 can be identified and quantified.
- c. Identify and describe each temporary difference that is reflected in account FXA02. In addition, describe the source of each temporary difference and how it was/is

¹ Original footnote 20 from PSC order, 2023-00231: “See Application, Exhibit F, Lines 1-10 (reflecting the connection between ADIT liability and plant additions in the relevant period); Application, Exhibit F-1, Lines 2-22 (reflecting the differences in the original book and tax bases and showing that they are due to expensing of repairs); *see also* Case No. 2022-00222, May 25, 2023 Order at 5, FN 19 (discussing how Atmos acknowledged that FXA01 only recorded differences arising from repair deductions).”

² Original footnote 21 from PSC order, 2023-00231: “See Private Letter Ruling 113227-19, 2020 WL 1071276 (issued Dec. 3, 2019) (finding, among other things, that book-tax timing differences arising from repairs, are not subject to normalization rules); *see also* 26 C.F.R. § 1.167(l)-1(h)(1)(i) (requiring a utility’s reserve for deferred taxes to reflect the total amount of the deferral of federal income tax liability resulting from the taxpayer’s use of accelerated depreciation); *see also* Case No. 2022-00222, May 25, 2023 Order at 5-6 (discussing how Atmos acknowledged that the repair deductions reflected in account FXA01 are not subject to normalization rules).”

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calculated, e.g., straight-line tax depreciation calculated on the tax basis. Further, confirm the Company's fixed asset system is sufficiently detailed that each of the temporary differences aggregated into FXA02 can be identified and quantified.

11. Refer to the response to AG-DR-1-39.
 - a. Confirm the Company does not have a formal Tax Allocation Agreement whereby it allocates AEC taxable income and the related tax liability among its affiliate entities and regulated utility divisions. If confirmed, then provide a copy of all other documentation that describes the allocation of AEC taxable income and the related tax liability among its affiliate entities and regulated utility divisions. If denied, then provide a copy of the formal Tax Allocation Agreement.
 - b. Indicate if AEC does or has otherwise been required in an audit or other means, to prepare, develop, or otherwise calculate the following. If so, describe the circumstances that led to these calculations, the purpose for the calculations, and the use of the calculations. In addition, provide a copy of all such calculations:
 - i. the actual taxable income or taxable loss by division;
 - ii. the portion of the taxable loss caused by the excess of accelerated tax depreciation over straight line book depreciation;
 - iii. the actual NOLC by division;
 - iv. the actual NOLC by division caused by the excess of accelerated tax depreciation over straight line book depreciation;
 - v. and/or the actual NOLC DTA by division.
12. Refer to the response to AG-DR-1-40 (e) and (f).
 - a. Identify and describe the Company's fixed asset software system.
 - b. Confirm that the fixed asset software system is sufficiently detailed to identify physical plant and plant-related costs directly assigned to a division, including, but not limited to, the related tax and book depreciation for book accounting, federal and state tax returns, and ratemaking purposes. If this is not correct, then describe the source of the plant, accumulated depreciation, ADIT due to accelerated tax depreciation in excess of book depreciation, depreciation expense, current income tax expense, and deferred income tax expense reflected in the Company's filing in this proceeding for both the base year (actual and budget months) and the test year.
 - c. Confirm the Company is able to query the fixed asset software system to extract actual, budget, and forecast tax depreciation and book depreciation by division by month, fiscal year, and calendar year. If confirmed, then provide the

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information requested in the referenced AG 1-40(e) or explain very specifically why the Company is unable to extract this information from its fixed asset software system.

13. Refer to the electronic workpaper provided in response to Staff DR-1-54, entitled “KY – ADIT – EDIT Tax Update June 2024,” in tab ADIT 009, in following cell rows 18 and 19:

Fixed Asset Cost Adjustment	2820	FXA	FXA01	(98,674,197)
Depreciation Adjustment	2820	FXA	FXA02	(32,543,306)

- a. Describe the amounts shown on each of these rows, e.g., Fixed Asset Cost Adjustment refers to basis differences between book gross plant cost and tax basis plant cost, such as the repair allowance deduction, and identify the source of the temporary difference amounts used to calculate these DTL amounts, e.g., PowerPlant fixed asset software.
- b. Indicate for each of these rows whether the Company has the underlying detail as to the specific temporary differences and the amounts for each temporary difference and whether it has that information for each prior year and the months shown on this schedule contributing to the specific DTL temporary difference aggregated into the amounts in each row. If the Company does not have this underlying detail, then explain why it does not and why it cannot be developed or obtained via query of the fixed asset software. If the Company does have the underlying detail, then provide this level of detail for each temporary difference and related DTL and the cumulative temporary differences and related DTL through June 2024 to match the test year amount and then for each month thereafter for which actual information is available.
14. Please refer to Schedule 2, page 1 of 7 attached to Mr. D’Ascendis’ direct testimony. Please provide updated S&P Capital IQ growth rates for the companies in the proxy group.
15. Refer to the Company’s Application and its request for authorization to issue up to 20 million shares of common stock “through and pursuant to its Long-Term Incentive Plan” in Case 2024-00392. The Company’s Application in that case states:

“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. Employees receiving cash bonuses pursuant to Atmos Energy’s Annual

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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

- a. Describe how the LTIP expense is calculated and recorded and how the shares of stock are valued and recorded when issued for each LTIP “type of award” and for employee elections to convert cash bonuses to shares of stock.
- b. Provide sample journal entries showing expense or other accounts used for the debits and the common equity or other accounts used for the credits for each LTIP “type of award” and for employee elections to convert cash bonuses to shares of stock.

³ Case No. 2024-00392, Application at 1-2.