

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY )  
CORPORATION TO EXTEND ITS DEMAND- )  
SIDE MANAGEMENT PROGRAM AS )  
AMENDED AND COST RECOVERY ) CASE NO. 2011-00395  
MECHANISM AS AMENDED FOR FIVE (5) )  
YEARS )

ATTORNEY GENERAL’S COMMENTS

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and submits his comments in the above-referenced case.

**I. Application Summary**

Pursuant to KRS 278.285, Atmos Energy Corporation (hereinafter referred to as “the Company”) seeks Commission approval to amend and continue its demand-side management (“DSM”) program and the associated cost recovery mechanism last approved by Order of the Commission in Case No.2008-00499 for an additional five (5) year period. The Company proposes to continue all existing programs, including the weatherization, rebate and education components with modifications detailed in its application filed on September 29, 2011.

**II. Attorney General’s Comments**

The Attorney General generally applauds the Company’s efforts but offers the following comments on the programs as proposed by the Company.

### **A. Separate Accounting of Employee-Related DSM Costs**

In regard to the Company's committal to account for the company's employee-related DSM expenses in the DSM program only and not include them as a "double count as additional employee expenses related to general services,"<sup>1</sup> this accounting approach is essential. If the company is permitted to do otherwise, it would lead to an inequitable result. Without separate accounting, the Company would be entitled (1) to recover its full costs of Commission-approved programs and revenues lost by implementing those programs and incentives designed to provide financial rewards to the utility for implementing cost-effective DSM programs under KRS 278.285(2)(a) and (b), and (2) to recover a return on equity for such expenses under Chapter KRS 278.190. This double recovery is unfair and completely unjustifiable for the ratepayers to be forced to bear. Accordingly, the Commission should order this separate accounting of costs.

### **B. Education Component**

In response to the Company's 2008 DSM application, the Attorney General did not recommend that the Commission approve the education component of the Company's DSM program. While the Attorney General agrees that efforts to inform the public regarding energy conservation issues are important, the efficient use of ratepayer funds is equally important. The Attorney

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<sup>1</sup> See Atmos Energy Corporation's Response to the Attorney General's Supplemental Data Request number 4.

General has consistently maintained that most education programs are essentially goodwill exercises on behalf of the company and have little or no measureable impact on energy usage. In its responses to data requests, the Company acknowledges that it does not have actual, verifiable data to demonstrate effectiveness, including energy savings as a result of the program.<sup>2</sup> It is much more likely that such a program will result in increased goodwill to the company in the near term, and as such more analogous to corporate advertising.

Despite these continuing concerns as to education programs, the Attorney General is supportive of the Company's proposal to expand its program from a targeted elementary school education program to an overall education program that will include adults as well as children. Similarly, the Attorney General supports the Company's proposal to cap the costs for this component at the existing level. Accordingly, if the Commission approves the continuation of the education component, the Attorney General recommends that the Commission include in its Order the proposed expansion and cost cap.

### **C. Demonstration of Cost-Effectiveness of Programs**

KRS 278.285(2)(b) requires that financial rewards to a utility must be tethered to implementing *cost-effective* demand-side management programs. (Emphasis supplied.) Consequently, a company that offers a program, or a part

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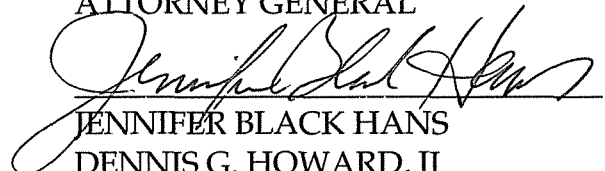
<sup>2</sup> See Atmos Energy Corporation's Response to the Attorney General's Supplemental Data Request number 5.

thereof, that is not cost effective should not be rewarded with any incentive leading to profit.

The Company states in response to the Attorney General's data request 2-8 (c) that it did not evaluate each program<sup>3</sup> under the RIM test or ratio.<sup>4</sup> The company thereby does not take issue with the fact that the RIM test is at least one applicable standard to determine the cost effectiveness of a DSM program. See also the company's response to the Attorney General's data request 2-9 (b), wherein Atmos agrees that the goal of a DSM program is to achieve energy efficiency. While the Attorney General does not maintain that the DSM program should be rejected or denied in whole, any portion thereof that does not prove to be cost effective should not be granted.

Subject to the above comments, the Attorney General would recommend the Commission approve the Application.

Respectfully submitted,  
JACK CONWAY  
ATTORNEY GENERAL



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<sup>3</sup> The Attorney General denotes each part or portion of the DSM "program" as a separate program.

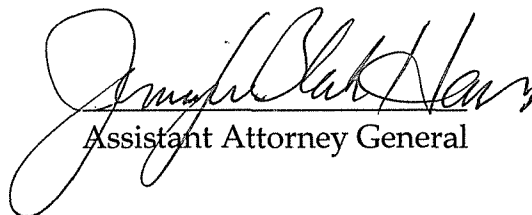
<sup>4</sup> To achieve the RIM test, a ratio of one or greater is required.

*Certificate of Service and Filing*

Counsel certifies that an original and ten photocopies of the Attorney General's Comments were served and filed by hand delivery to Jeff Derouen, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; furthermore, it was served by mailing a true and correct copy of the same, first class postage prepaid, to:

Mark A. Martin  
Atmos Energy Corporation  
3275 Highland Pointe Drive  
Owensboro, Kentucky 42303

all on this 17 day of February 2012.

  
Assistant Attorney General