

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|--------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF ATMOS |) | CASE NO. |
| ENERGY CORPORATION FOR A DEMAND-SIDE |) | 2021-00401 |
| MANAGEMENT PROGRAM |) | |

ORDER

On October 28, 2021, Atmos Energy Corporation (Atmos) filed an application proposing to renew and extend the current demand-side management (DSM) program, until April 30, 2023. Atmos also filed a motion contemporaneous to the application to extend the DSM program or an order authorizing the unwinding of the current DSM program and a waiver from the requirements of KRS 278.285 to the extent necessary, to grant the relief requested (Motion).¹ Atmos responded to one request for information. There are no intervenors in this proceeding. This case now stands submitted for a decision based on the evidentiary record.

LEGAL STANDARD

KRS 278.285(1) authorizes the Commission to review and approve the reasonableness of DSM programs proposed by any utility under its jurisdiction. The statute lists multiple factors the Commission can consider when determining the reasonableness of the DSM programs. The listed factors in KRS 278.285(1) are:

- (a) The specific changes in customers' consumption patterns which a utility is attempting to influence.

¹ Atmos's Response to Commission Staff's First Request for Information (Staff's First Request) (filed Feb. 9, 2022), Item 3.

- (b) The cost and benefit analysis and other justification for specific demand-side management programs and measures included in a utility's proposed plan.
- (c) A utility's proposal to recover in rates the full costs of demand-side management programs, any net revenues lost due to reduced sales resulting from demand-side management programs, and incentives designed to provide positive financial rewards to a utility to encourage the implementation of cost-effective demand-side management programs.
- (d) Whether a utility's proposed demand-side management programs are consistent with its most recent long-range integrated resource plan; (e) Whether the plan results in any unreasonable prejudice or disadvantage to any class of customers.
- (e) The extent to which customer representatives and the Office of the Attorney General have been involved in developing the plan, including program design, cost recovery mechanisms, and financial incentives, and if involved, the amount of support for the plan by each participant, provided, however, that unanimity among the participants developing the plan shall not be required for the commission to approve the plan.
- (f) The extent to which the plan provides programs which are available, affordable, and useful to all customers; and
- (g) Next-generation residential utility meters that can provide residents with the amount of current utility usage, its cost, and can be capable of being read by the utility either remotely or from the exterior of the home.

KRS 278.285(1) also states the factors listed are not exhaustive; the Commission can consider anything that will help determine if the programs are reasonable.

KRS 278.180 provides that no change shall be made by a utility in any rate except upon 30 days' notice to the Commission. KRS 278.180(1) provides the Commission with discretion to reduce the notice period to 20 days upon a showing of good cause. KRS 278.180(2) states that the Commission can prescribe less than 20 days' notice if the rate change reduces rates.

BACKGROUND

The Commission approved Atmos's current programs on April 27, 2018, in Case No. 2017-00424.² In that case, the Commission ordered Atmos to cease offering all DSM programs except its Low-Income Residential Weatherization program until market conditions change so that the cost-benefit test exhibits a positive net present value based on gas cost savings. This approval was for three years ending April 30, 2021.

Atmos explained that it inadvertently failed to seek renewal of the program and, as a result, the DSM program expired on April 30, 2021. Atmos further explained that it did not discover this until mid-October 2021.³ Atmos stated that it ceased assessing DSM charges and credits on October 15, 2021.⁴ However, between May 1, 2021, and October 15, 2021, Atmos continued to charge the DSM rider on customers' bills. During this unauthorized period, Atmos collected approximately \$5,900 from residential customers and credited approximately \$4,000 to commercial customers.⁵ Atmos also spent approximately \$37,000 on qualifying DSM projects between May 1, 2021, and September 30, 2021.⁶

In the application, Atmos proposed to continue the program at a \$0.0000/ccf rate for both the residential and commercial classes until April 30, 2023, stating that an extension would create sufficient time to determine whether the current high gas costs

² Case No. 2017-00424, *Application of Atmos Energy Corporation to Extend Its Demand-Side Management Program as Amended and Cost Recovery Mechanism as Amended for Three (3) Years* (Ky. PSC Apr. 27, 2018).

³ Motion, paragraph 3.

⁴ *Id.*

⁵ *Id.*, paragraph 4.

⁶ *Id.*

continue, and if they do continue, whether favorable DSM cost/benefit scores for other DSM programs result.⁷ Atmos filed corresponding tariffs with an effective date of May 1, 2021.⁸ In the alternative, Atmos requested that the DSM program be terminated and the over-recoveries be returned through its gas cost adjustment.⁹ Atmos also proposed not to recover the approximately \$37,000 of program expenses incurred between May 1, 2021, and October 15, 2021, if the program was terminated.¹⁰

DISCUSSION

The DSM tariff accompanying this application contained a retroactive date of May 1, 2021. The Commission denies the DSM tariff filed by Atmos because the tariff fails to meet the requirements of KRS 278.180, which provide for prospective notice and not retroactive notice. KRS 278.180 requires a minimum of 30 days' notice to the Commission prior to the effective date of a tariff but allows for a minimum of 20 days' notice upon a showing of good cause, and, if rates are being reduced, allows for less than 20 days' notice. The statutory language is clear that notice must be provided **before** the proposed rates go into effect, not after. Further, because this is a statute that does not allow for retroactive notice, the Commission does not have the statutory authority to waive the requirement that notice be provided on a prospective basis.

The Commission further denies Atmos's proposed DSM tariffed rates of \$0.0000/ccf for both the residential and commercial classes. This rate is not fair, just and

⁷ Application, paragraph 9 and Motion, paragraph 7.

⁸ Application, Atmos_Energy_KY_DSM_Application_Tenth_Revised_Sheet_Np_36.pdf.

⁹ Application, paragraph 9 and Motion, paragraph 8.

¹⁰ Motion, paragraph 8.

reasonable and does not meet the legal standard of KAR 278.285 because it does not accurately reflect the DSM Balancing Adjustment, Cost Recovery, Lost Sales Adjustment or Incentive Adjustment, as required by statute. The Commission additionally finds that the approximately \$37,000 spent on qualifying DSM projects between May 1, 2021, and September 30, 2021, shall not be paid for with customer funds because this error is not the fault of Atmos's customers, but with Atmos itself.

As noted in Case No. 2017-00424, the Commission recognizes that low-income weatherization programs provide valuable assistance to income-eligible customers by reducing their heating bills. This is especially important during the current high gas cost prices. Currently, the residential class has an overcollection of \$140,650 and the commercial class has an overcollection of \$21,290.¹¹ These funds would have been returned during a normal tariff filing balancing adjustment and should be returned to the customers.¹² Removing the unauthorized expenditures between May and September of 2021, and, based upon the forecasted expenditures for May 2022 to April 2023, the Commission finds a residential DSM recovery rate of \$0.0096/Mcf is reasonable as this rate includes the DSM Balancing Adjustment, Cost Recovery, Lost Sales Adjustment and Incentive Adjustment.¹³ In addition, the Commission finds that the over-recoveries should be returned to the commercial customers and a rate of \$(0.0059)/Mcf to be reasonable.¹⁴ Currently, the commercial surcharge factor only accounts for any over and

¹¹ Atmos's Response to Staff's First Request, Item 5.

¹² Atmos was ordered to withdrawal the DSM Tariff Filing TFS2021-00446 as the tariff was not a true balancing adjustment, but mirrored the tariff filed in the instant case. See Atmos's Response to Staff's First Request, Item 5.

¹³ See Appendix A.

¹⁴ *Id.*

undercollection reconciliations as there are no commercial DSM programs. Therefore, for Atmos's next DSM filing for rates effective May 1, 2023, the Commission orders Atmos to calculate any over- or under-recovery for the commercial class and propose how to return this amount through either the GCA or by deferring the over- or under-recovery as a regulatory liability or asset.

IT IS THEREFORE ORDERED that:

1. Atmos's proposed residential and commercial DSM rates are denied.
2. Any future DSM applications filed by Atmos shall include the information as described in the findings above.
3. Atmos's Low-Income Weatherization Program is approved through April 30, 2023.
4. The DSM rates in Appendix B to this Order are approved for final meter readings on and after May 1, 2022.
5. Within 14 days from the date of this Order, Atmos shall publish a one-time notice following the requirements of 807 KAR 5:076, Section 5, of the DSM rider rates as reflected in Appendix B to this Order. Atmos shall provide proof of publication of the notice to the Commission no later than 20 days from the date of this Order.
6. Within 20 days of the date of this Order, Atmos shall file with this Commission, using the Commission's electronic Tariff Filing System, revised tariff sheets setting out the rates approved herein and reflecting that they were approved pursuant to this Order.
7. Atmos shall be allowed to recover any lost revenues and authorized incentives associated with any Commission-approved DSM program consistent with KRS

278.285. Recovery of lost revenues shall be limited to no more than three years but will be reset to zero based upon Commission approval of rates in Atmos's pending base-rate case,¹⁵ and shall not exceed claimed savings over the life of the specific DSM measure.

8. This case is closed and removed from the Commission's docket.

¹⁵ Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (filed July 20, 2021).

PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman

Commissioner

ENTERED
APR 14 2022 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00401 DATED APR 14 2022

ATMOS ENERGY CORPORATION
 Kentucky/Mid-States Division
 DSM Balancing Adjustment

DSMRC = DCRC + DLSA + DIA + DBA

| | (a) | (b) | (c) | (d) | |
|----|--|----------------------|---------------------|----------------------|-----------------------|
| | | | | DSMRC Recoveries | DSMRC Costs |
| 1 | | | | | (\$140,650.47) |
| 2 | | | | | |
| 3 | Sep-20 | \$573.90 | \$ 14,445.71 | (\$12.15) | \$15,007.46 |
| 4 | Oct-20 | \$1,067.18 | \$ 5,802.34 | (\$37.63) | \$6,831.89 |
| 5 | Nov-20 | \$2,619.95 | \$ 5,596.61 | (\$121.29) | \$8,095.27 |
| 6 | Dec-20 | \$5,888.28 | \$ - | (\$278.51) | \$5,609.77 |
| 7 | Jan-21 | (\$762.51) | \$ 2,956.94 | (\$3.68) | \$2,190.75 |
| 8 | Feb-21 | (\$10,999.60) | \$ 2,558.68 | (\$431.88) | (\$8,872.80) |
| 9 | Mar-21 | (\$9,046.94) | \$ 4,252.35 | (\$355.24) | (\$5,149.83) |
| 10 | Apr-21 | (\$4,354.48) | \$ 3,000.00 | (\$171.49) | (\$1,525.97) |
| 11 | May-21 | (\$2,275.74) | | (\$89.88) | (\$2,365.62) |
| 12 | Jun-21 | (\$1,234.54) | | (\$49.30) | (\$1,283.84) |
| 13 | Jul-21 | (\$857.73) | | (\$34.68) | (\$892.41) |
| 14 | Aug-21 | (\$733.38) | | (\$30.43) | (\$763.81) |
| 15 | | <u>(\$20,115.61)</u> | <u>\$ 38,612.63</u> | <u>\$ (1,616.16)</u> | <u>(\$123,769.61)</u> |
| 17 | Annual Average Commercial Paper Rate at September 21 | | 0.10% | \$ (123.77) | |
| 18 | Total Residential DSMRC Balance | | | | (\$123,893.38) |
| 19 | Sep-21 | (\$843.54) | | | (\$843.54) |
| 20 | Oct 21 - Apr 22 | \$0.00 | \$0.00 | | \$0.00 |
| 21 | May 22 - Apr 23 | \$0.00 | \$100,311.81 | | \$100,311.81 |
| 22 | Adjusted Total Residential C | (\$843.54) | \$ 138,924.44 | | (\$24,425.11) |
| 23 | | | | | |
| 24 | Annual Expected Residential Sales (Mcf) | | | | 8,795,049 |
| 25 | | | | | |
| 26 | DBA = DSM Balancing Adjustment | | | | (0.0028) |
| 27 | | | | | |
| 28 | DCRC = DSM Cost Recovery - Current | | | | 0.0123 |
| 29 | | | | | |
| 30 | DLSA = DSM Lost Sales Adjustment | | | | 0.0001 |
| 31 | | | | | |
| 32 | DIA = DSM Incentive Adjustment | | | | 0.0000 |
| 33 | | | | | |
| 34 | DSMRC Residential Rate G-1 | | | | <u>0.0096</u> |

Notes:

This schedule includes the balance carry forward prior to Sep-20 and activity from Sep-20 through Sep-21 (Lines 1-19)

Estimated expenses is based on a two year average from 2019 and 2020 filing. (Line 21)

The DCRC is based on cost recovery of \$108,000 which is based on an average of 36 homes weatherized in 2020 and 2021 (\$ 3,000 x 36) (Line 28)

This schedule assumes no billings from October 2021 through April 2023 (Lines 20 and 21, Column a)

| G-1 Commercial | | (a) | (b) | (c) | (d) |
|----------------|--|---------------------|---------------|--------------------|----------------------------|
| | | DSMRC Recoveries | DSMRC Costs | DIA + DLSA Revenue | Under/(Over) DSMRC Balance |
| 42 | Previous DBA Balancing Adjustment | | | | (\$21,290.40) |
| 43 | | | | | |
| 44 | Sep-20 | (\$1,999.89) | \$ - | \$0.00 | (\$1,999.89) |
| 45 | Oct-20 | (\$2,632.53) | \$ - | \$0.00 | (\$2,632.53) |
| 46 | Nov-20 | (\$3,209.89) | \$ - | \$0.00 | (\$3,209.89) |
| 47 | Dec-20 | (\$6,261.64) | \$ - | \$0.00 | (\$6,261.64) |
| 48 | Jan-21 | (\$2,849.30) | \$ - | \$0.00 | (\$2,849.30) |
| 49 | Feb-21 | \$4,163.92 | \$ - | \$0.00 | \$4,163.92 |
| 50 | Mar-21 | \$3,494.33 | \$ - | \$0.00 | \$3,494.33 |
| 51 | Apr-21 | \$1,725.83 | \$ - | \$0.00 | \$1,725.83 |
| 52 | May-21 | \$995.77 | \$ - | \$0.00 | \$995.77 |
| 53 | Jun-21 | \$731.77 | \$ - | \$0.00 | \$731.77 |
| 54 | Jul-21 | \$670.66 | \$ - | \$0.00 | \$670.66 |
| 55 | Aug-21 | \$599.28 | \$ - | \$0.00 | \$599.28 |
| 56 | | <u>(\$4,571.69)</u> | <u>\$0.00</u> | <u>\$ -</u> | <u>(\$25,862.09)</u> |
| 57 | | | | | |
| 58 | Annual Average Commercial Paper Rate at September 21 | | | 0.10% | \$ (25.86) |
| 59 | Total Commercial DSMRC Balance | | | | (\$25,887.95) |
| 60 | Sep-21 | \$1,014.50 | \$0.00 | | \$1,014.50 |
| 61 | Oct 21 - Apr 22 | \$0.00 | \$0.00 | | \$0.00 |
| 62 | May 22 - Apr 23 | \$0.00 | \$0.00 | | \$0.00 |
| 63 | Adjusted Total Residential C | \$1,014.50 | \$0.00 | | (\$24,873.45) |
| 64 | | | | | |
| 65 | Annual Expected Commercial Sales (Mcf) | | | | 4,180,859 |
| 66 | | | | | |
| 67 | DBA = DSM Balancing Adjustment | | | | (0.0059) |
| 68 | | | | | |
| 69 | DCRC = DSM Cost Recovery - Current | | | | 0.0000 |
| 70 | | | | | |
| 71 | DLSA = DSM Lost Sales Adjustment | | | | 0.0000 |
| 72 | | | | | |
| 73 | DIA = DSM Incentive Adjustment | | | | 0.0000 |
| 74 | | | | | |
| 75 | DSMRC Commercial Rate G-1 | | | | <u>(0.0059)</u> |

77 **Notes:**

78 This schedule includes the balance carry forward prior to Sep-20 and activity from Sep-20 through Sep-21 (Lines 42-60)
79 This schedule assumes no refund activity from October 2021 through April 2023 (Lines 61 and 62, Column a)

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00401 DATED APR 14 2022

The following rates and charges are prescribed for the customers in the area served by Atmos Energy Corporation. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of the Commission prior to the effective date of this Order.

DSM Cost Recovery Component (DSMRC-R)

| | |
|-----------------------------|---------------------------|
| DSM Cost Recovery - Current | \$ 0.0123 per Mcf |
| DSM Lost Sales Adjustment | \$ 0.0001 per Mcf |
| DSM Incentive Adjustment | \$ 0.0000 per Mcf |
| DSM Balance Adjustment | <u>\$(0.0028) per Mcf</u> |
| DSMRC Residential Rate G-1 | \$ 0.0096 per Mcf |

DSM Cost Recovery Component (DSMRC-C)

| | |
|-----------------------------|---------------------------|
| DSM Cost Recovery - Current | \$ 0.0000 per Mcf |
| DSM Lost Sales Adjustment | \$ 0.0000 per Mcf |
| DSM Incentive Adjustment | \$ 0.0000 per Mcf |
| DSM Balance Adjustment | <u>\$(0.0059) per Mcf</u> |
| DSMRC Commercial Rate G-1 | <u>\$(0.0059) per Mcf</u> |

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