

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Jay Scott Emler, Chairman
 Shari Feist Albrecht
 Pat Apple

In the Matter of the Application of Atmos) Docket No. 16-ATMG-079-RTS
Energy Corporation for Adjustment of its)
Natural Gas Rates in the State of Kansas.)

ORDER APPROVING IN PART; DENYING IN PART
UNANIMOUS SETTLEMENT AGREEMENT

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This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings and conclusions:

I. INTRODUCTION

A. PROCEDURAL HISTORY.

1. On August 13, 2015, Atmos Energy Corporation (Atmos Energy) filed an Application with the Commission to make certain changes in its rates and charges for natural gas service to its 131,000 Kansas customers, to seek approval of a formula rate mechanism referred to as an Annual Rate Mechanism (ARM), or in the alternative, for approval to file an abbreviated docket to update rates to reflect new infrastructure investment, and approval of a System Integrity Program (SIP) tariff to accelerate progress in replacing obsolete materials in its distribution system.¹ Atmos Energy proposed that the rate changes and revised Staff schedules become effective thirty (30) days from the date of filing, as permitted by law, or at such other date as the Commission may by order prescribe.²

2. The schedules filed with Atmos Energy's Application indicated a gross revenue deficiency of \$6.6 million based upon normalized operating results for the 12 months ending March 31, 2015, adjusted for known and measurable changes in revenues, operating and maintenance expenses, costs of capital and taxes, and other adjustments.³ Atmos Energy's request for an overall revenue increase of \$6.6 million is the result of increasing base rates by \$5.7 million, proposing a rate case expense surcharge of \$0.950 million, and rebasing amounts currently collected through the Gas System Reliability Surcharge (GSRS) of \$0.388 million as well as rebasing \$0.078 million of Ad Valorem Tax Surcharge (AVTS).⁴ In support of its

¹ Application at 2-4 (Aug. 13, 2015).

² *Id.* at 5.

³ *Id.* at 2-3.

⁴ Application, pages 2-3.

Application, Atmos Energy submitted the testimony of eleven witnesses and schedules as required by K.A.R. 82-1-231.

3. Pursuant to the September 10, 2015, Order of the Commission, the effective date of this Application filed herein was suspended for up to 240 days, or until April 11, 2016.⁵

4. On August 14, 2015, the Citizens' Utility Ratepayer Board (CURB) petitioned for intervention. On September 8, 2015, Continuum Retail Energy Services, LLC petitioned for intervention. The Commission granted both petitions.

5. On December 21, 2015, Commission Staff (Staff) filed its direct testimony in the above docket, recommending a rate increase of \$1.49 million for Atmos Energy.⁶ Staff recommended additional adjustments to Atmos Energy's proposed depreciation rates for shared services and raised several policy questions related to the calculation of depreciation rates.⁷ Staff made additional recommendations regarding return on equity, adjustments to the income statements and rate base, and Atmos Energy's requested ARM, SIP, and rate case expense rider.⁸ Staff supported an abbreviated rate filing conditioned upon Atmos Energy agreeing to a three-year rate moratorium.⁹

6. On December 21, 2015, CURB filed testimony in which it recommended a revenue decrease of \$716,730.00, opposed Atmos Energy's requested ARM, opposed the rate case expense rider and suggested any decision regarding the SIP be deferred to the *General Investigation Regarding the Acceleration of Replacement of Natural Gas Pipelines Constructed*

⁵ Order on Protective and Discovery Orders; Electronic Service; Designating Prehearing Officer; Suspension; and Granting CURB Intervention at 10 (Sep. 10, 2015).

⁶ Direct Testimony Prepared by Kristina A. Luke Fry at 6 (Dec. 21, 2015) [*hereinafter* Fry Test.].

⁷ Direct Testimony and Schedules of Roxie McCullar (Dec. 21, 2015).

⁸ Fry Test. at 2-3.

⁹ Direct Testimony Prepared by Justin T. Grady at 31-30 (Dec. 21, 2015).

of Obsolete Materials Considered to be a Safety Risk, Docket No. 15-GIMG-343-GIG (Mar. 12, 2015) [*hereinafter* 15-343 Docket].¹⁰

7. On December 21, 2015, Continuum filed testimony making recommendations as to (1) allocation of revenue to the transportation class; (2) equalizing transportation class rates to their companion sales class rates; (3) eliminating the minimum annual usage requirement or threshold for a customer to qualify to receive transportation service; and (4) setting a threshold for when electronic flow measurement (EFM) equipment is required.¹¹

8. On January 5, 2016, CURB and Continuum filed cross-answering testimony.

9. Atmos Energy filed rebuttal testimony on January 11, 2016.

10. On January 20, 2016, the Parties filed a joint motion requesting approval of a Unanimous Settlement Agreement (SA), as that term is defined by K.A.R. 82-1-230a(2). The SA outlines the proposed resolution to all outstanding disputed issues raised in the application, pre-filed testimony and exhibits.¹²

11. On January 21, 2016, each Party filed testimony in support of the Settlement.

12. On February 2, 2016, the Commission conducted an evidentiary hearing on the Parties' joint motion to approve the SA.

¹⁰ Direct Testimony of Andrea C. Crane Re: Revenue Requirement and Policy Issues at 7-8 (Dec. 21, 2015).

¹¹ Direct Testimony of Rick Pemberton at 6-9, 14-15 (Dec. 21, 2015).

¹² Joint Motion to Approve Unanimous Settlement Agreement at Attachment 1, (Jan. 20, 2016). Hereinafter the attached SA will be referred to as its own document for purposes of citation. It is with this note that it should be highlighted that the SA either begins with page two or begins with page one and skips page two as the first noted page number is page three. Citation to the document will be in accordance with the latter.

13. The following witnesses appeared and testified in support of the Settlement:

Atmos Energy: Gary L. Smith & Christian (Troy) L. Paige

Staff: Justin Grady

CURB: Andrea C. Crane

Continuum: Richard Pemberton¹³

B. JURISDICTION, AUTHORITY AND LEGAL STANDARDS

14. The Commission has full power, authority and jurisdiction to supervise and control natural gas public utilities doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.¹⁴ "Natural gas public utility" means any public utility, as defined in K.S.A. 66-104, which supplies natural gas.¹⁵ K.S.A. 66-104 defines "public utility" in part as "all companies for the production, transmission, delivery or furnishing of heat, light, water, or power."

15. Natural gas public utilities subject to the Commission's jurisdiction shall "furnish reasonably efficient and sufficient service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such natural gas public utility, to establish just and reasonable rates, charges and exactions and to make just and reasonable rules, classifications and regulations."¹⁶ The Commission thus has the power to require utilities to establish just and reasonable rates and maintain reasonably sufficient and efficient service.¹⁷

¹³ Transcript, page 3, lines 5-20.

¹⁴ K.S.A. 66-1,200; 66-1,201.

¹⁵ K.S.A. 66-1,200.

¹⁶ K.S.A. 66-1,202.

¹⁷ K.S.A. 66-1,202.

16. The authority of the Commission is liberally construed, and in the exercise of the Commission's power, authority, and jurisdiction, all incidental powers necessary to carry into effect the provision of the Natural Gas Public Utilities Act, K.S.A. 66-1,200, *et seq.*, are expressly granted to and conferred upon the Commission.¹⁸

17. Pursuant to K.S.A. 66-117, a public utility over which the Commission has jurisdiction cannot make effective any “changed rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of such public utility” except upon filing with the Commission.

18. Upon the filing by Atmos Energy on August 13, 2015 to make changes to its charges for natural gas service pursuant to K.S.A. 66-117 and K.A.R. 82-1-231, the Commission has jurisdiction to exercise control and authority over Atmos Energy for, among other things, this particular rate request.

C. PREFILED TESTIMONY AND OTHER DOCUMENTS

19. The Commission regulations address filing requirements for rate proceedings, and require utilities such as Atmos Energy to provide appropriate schedules and competent testimony when filing a rate change application.¹⁹

20. On August 13, 2015, Atmos Energy filed direct testimony from eleven witnesses in addition to data that numbered several hundred pages. On December 21, 2015, Staff, CURB and Continuum submitted direct testimony in accordance with the procedural schedule. Shortly thereafter, on January 5, 2016, CURB and Continuum submitted cross-answering testimony. On

¹⁸ K.S.A. 66-1,207.

¹⁹ *See* K.A.R. 82-1-231.

January 11, 2016, Atmos Energy submitted rebuttal testimony from seven witnesses. The following table identifies and outlines these filings:

	DIRECT TESTIMONY WITNESSES	CROSS-ANS. TESTIMONY WITNESSES	REBUTTAL TESTIMONY WITNESSES
Atmos Energy	<ol style="list-style-type: none"> 1. Gary Gregory 2. John McDill 3. Barbara Myers 4. Christian Paige 5. Gary L. Smith 6. Richard Thomas 7. Laura Becker 8. Jared Geiger 9. Paul Raab 10. Ann Bulkley 11. Dane Watson 		<ol style="list-style-type: none"> 1. Gary Gregory 2. Barbara Myers 3. Christian Paige 4. Gary L. Smith 5. Jared Geiger 6. Paul Raab 7. Ann Bulkley 8. Dane Watson
Staff	<ol style="list-style-type: none"> 1. Leo Haynos 2. Adam Gatewood 3. William E. Baldry 4. Tyler J. Page 5. Katie L. Figgs 6. Kristina Luke-Fray 7. Robert Glass 8. Justin Grady 		
CURB	<ol style="list-style-type: none"> 1. Andrea C. Crane 2. Brian Kalcic 3. Edward A. McGee 	<ol style="list-style-type: none"> 1. Andrea C. Crane 2. Brian Kalcic 	
Continuum	<ol style="list-style-type: none"> 1. Rick Pemberton 	<ol style="list-style-type: none"> 1. Rick Pemberton 	

21. In summation, by January 11, 2016, 23 witnesses from four separate parties had placed into the administrative record for this docket thirty-three (33) iterations of direct, cross-answering or rebuttal testimony that established and defended the basis and rationale for their respective initial positions.

D. PUBLIC HEARINGS AND COMMENTS

22. The Commission took comments from the public regarding Atmos Energy's Application from the commencement of Atmos Energy's general rate case up through January 26, 2016, as directed by the procedural schedule. The Commission received comments via telephone, traditional mail, and electronic mail.

23. The Commission, though not required by statute, has established a history of directly reaching out and receiving comments from individual members of the public. Public hearings provide the citizens of Kansas an opportunity to address the Commission directly.

24. The procedural schedule set a public hearing for December 1, 2015, at Kansas University, Edwards Campus - Best Conference Center, Overland Park, Kansas, with live video conferencing available via the Commission website.²⁰

25. Atmos Energy's customers and the general public received notification by way of multiple newspapers throughout the state, as well as mailers included in every Atmos Energy customer's bill.²¹

26. On January 28, 2016, the Commission's Public Affairs and Consumer Protection Division ("PACP") caused to be filed in the record a report summarizing the public comments received. The Commission received sixteen (16) comments from August 13, 2015 through January 26, 2016.²² The Commission received one comment during the December 1, 2015, Overland Park hearing. The public response received in this docket indicated general opposition to Atmos Energy's Application.

²⁰Order Setting Procedural Schedule and Notice of Public Hearing at 4, (Sep. 29, 2015).

²¹See Affidavit of Mailing, Publication and Electronic Service, (Nov. 30, 2015).

²²Notice of Filing of Public Comment (Jan. 28, 2016).

E. EVIDENTIARY HEARINGS AND ADMINISTRATIVE NOTICE

27. On February 2, 2016, in accordance with the procedural schedule set forth in this docket, the Commission convened an evidentiary hearing to receive testimony in support of settlement and allow Commissioners to ask any question of the Parties' witnesses regarding the rate case and the SA. After inquiring with Staff and hearing no objections, the Commission found that notice and convening of the evidentiary hearing was proper.²³

II. UNANIMOUS SETTLEMENT AGREEMENT

A. SETTLEMENT & AGREEMENT

28. The Unanimous Settlement and Agreement is hereby attached and the provisions incorporated herein as agreed to by the Parties.

29. STIPULATED REVENUE REQUIREMENT. The Parties propose that Atmos Energy's net overall annual revenue increase should be set at \$2,218,903.00.²⁴ This number is inclusive of rate case expense.²⁵ Further, Atmos Energy agrees to roll into base rates the existing balance in the GSRS (\$0.388 million) and Ad Valorem Tax Surcharge ("AVTS") riders (\$0.078 million) and those amounts are included in the annual revenue increase agreed to by the Parties.²⁶

30. DEPRECIATION RATES. The Parties agree that the revenue requirement shall include a decrease in Atmos Energy's Shared Service Corporate Assets depreciation expense consistent with the depreciation rates proposed by Staff witness Roxie McCullar.²⁷ The depreciation rates are set forth in Appendix A to the SA. The Parties also agree that the revenue

²³ Transcript of Evid. Hearing at 5 (Feb. 2, 2016).

²⁴ SA at 4.

²⁵ *Id.*

²⁶ *Id.* at 4-5.

²⁷ *Id.* at 5

requirement includes the Colorado/Kansas Division Assets depreciation rates proposed by Atmos Energy witness Dane Watson that were based upon a depreciation study approved by the Colorado Public Service Commission.²⁸

31. Atmos Energy agrees to adopt the depreciation rates in Appendix A to the SA in lieu of the policy recommendations made by Ms. McCullar or Mr. Watson.²⁹ The Parties agree that the policy recommendations made by Ms. McCullar and Mr. Watson regarding ALG v. ELG may be addressed in future general rate case filings.³⁰

32. **ANNUAL RATE MECHANISM**. Atmos Energy agrees that it will not implement its proposed ARM tariff in this rate case.³¹

33. **WEATHER NORMALIZATION ADJUSTMENT (WNA) FACTORS**. The Parties agree that Atmos Energy shall be allowed to use its currently approved WNA factors and that its WNA tariff shall remain in effect.³²

34. **PRE-TAX RATE OF RETURN**. While the Parties have specifically acknowledged that no stated return on equity is included in the SA, the Parties have agreed that Atmos Energy shall be authorized to use 11.04%, until its next general rate proceeding, as its overall pre-tax rate of return for regulatory accounting purposes, the requested abbreviated rate case agreed to by the Parties and for GSRS and SIP filings.³³ The Parties also specifically indicate in the SA

²⁸ *Id.*

²⁹ SA at 5.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.* at 5-6.

that the agreement to use the indicated overall pre-tax rate of return was for settlement purposes only and that it shall have no precedential effect.³⁴

35. **AD VALOREM TAX SURCHARGE RIDER.** The Parties agree that for purposes of filing Atmos Energy's AVTS Rider in December 2016 and in subsequent years until rebased by Atmos Energy's next general rate case, the Ad Valorem Tax expense embedded in base rates shall be \$6,526,565.00, less the capitalized amount of \$87,597.00 resulting in a net amount in base rates of \$6,438,968.00.³⁵ “For purposes of calculating the December 2016 rider, the Parties agree to prorate the base rate amount between (a) ad valorem tax expense embedded in base rates for the current docket, effective with the date the rate increase is implemented; and (b) for the period between January 1, 2016, and the date the rates are made effective in this docket, the Ad Valorem Tax expenses used will be the base rate amount in Atmos Energy's 2014 rate case, Docket No. 14-ATMG-320-RTS.”³⁶

36. **PENSION AND POST RETIREMENT BENEFIT TRACKERS.** For purposes of calculating Atmos Energy's pension trackers going forward, the Parties agree that the base rates shall include the following expenses:

- a. Atmos Energy's Pension Expense for Kansas Direct: \$404,898;
- b. Atmos Energy's Pension Expense for Shared Services: \$243,500;
- c. Atmos Energy's Post Retirement Expense for Kansas Direct: \$274,748;
- d. Atmos Energy's Post Retirement Expense for Shared Services: \$168,700.³⁷

³⁴ *Id.* at 6.

³⁵ SA at 6.

³⁶ *Id.*

³⁷ *Id.*

37. **AMORTIZATION PERIODS.** The Parties agree to use the following amortization periods:

- a. Actual rate case expense, plus remaining uncollected balance from previous rate cases, shall be amortized over three (3) years.³⁸
- b. Pension and post retirement trackers shall be amortized over three (3) years.³⁹

With respect to rate case expense, Atmos Energy agrees it will not include any rate case expense from any prior general rate case filing, including this rate case, in its next general rate case application.⁴⁰

38. **ABBREVIATED RATE CASE FILING.** The Parties agree that Atmos Energy be allowed to use the abbreviated rate case process pursuant to K.A.R. 82-1-231(b)(3).⁴¹ The abbreviated rate case filing would allow Atmos Energy to update its rates to include the non-growth related capital costs closed after September 30, 2015, not included in a GSRS or SIP filing, and to recover the cost of the abbreviated rate case filing.⁴² Atmos Energy shall use a test period ending September 30, 2016, for the abbreviated filing.⁴³ The Parties agree that Staff shall include known and measurable updates to said non-growth related capital costs through March 31, 2017.⁴⁴ Updated rates approved in the abbreviated rate case shall go into effect no later than September 1, 2017.⁴⁵ For purposes of the abbreviated rate case filing, the Parties agree that: (1) the 11.04% pre-tax overall rate of return shall be used to set rates; and (2) the increase in revenue requirement shall be allocated among customer classes based upon the same percentages

³⁸ *Id.* at 6-7.

³⁹ *Id.* at 7.

⁴⁰ *Id.* at 7.

⁴¹ SA at 7.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

reflected in Appendix B to the SA.⁴⁶ The Parties also request that the Commission expressly grant Atmos Energy prior approval to file this abbreviated rate case pursuant to K.A.R. 82-1-231(b)(3).⁴⁷

39. **THREE-YEAR RATE MORATORIUM.** Atmos Energy agrees to a three-year rate moratorium. Pursuant to the SA and subject to the Parties' agreement that Atmos Energy shall be allowed to change base rates using the abbreviated rate case filing, the Parties agree that Atmos Energy should not make any changes to base rates prior to March 1, 2019.⁴⁸ Atmos Energy is allowed to file a general rate case application after July 1, 2018, however, the effective date of said change shall not be prior to March 1, 2019.⁴⁹ The time limitation on filing a general rate case to change base rates does not preclude Atmos Energy from changing rates or tariffs to recover appropriate costs under the Commission approved Purchased Gas Adjustment ("PGA"), Annual Cost Adjustment ("ACA"), WNA, AVTS rider and GSRS tariffs and the SIP tariff included in the SA.⁵⁰ Atmos Energy may make tariff filings to comply with new Commission rules and policies, including revenue neutral changes to rate design. Atmos Energy may propose methods resulting from any new Commission rule or policy.⁵¹

40. The SA contemplates an exception to the agreed rate moratorium. In the event of changes in law or regulations, or the occurrence of events outside the control of Atmos Energy that result in a material adverse impact to Atmos Energy, the Parties agree Atmos Energy may file an application with the Commission proposing methods to address the impact of such events,

⁴⁶ *Id.*

⁴⁷ SA at 7.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.* at 7-8.

⁵¹ *Id.* at 8.

including the possibility of changes to base rates.⁵² The Parties agree that any such application may be contested, including whether the impact of the change or events is material to Atmos Energy and whether Atmos Energy's proposed remedy is reasonable.⁵³

41. **SYSTEM INTEGRITY PROGRAM TARIFF.** The Parties agree that Atmos Energy shall be allowed to implement a surcharge mechanism, referred to as the System Integrity Program ("SIP") tariff, to recover carrying charges on capital expenditures incurred in the accelerated replacement of obsolete pipe.⁵⁴

42. The Parties agree the SIP shall be implemented as a five-year pilot program beginning January 1, 2017, and ending with the filing of the final SIP surcharge on January 15, 2022.⁵⁵

43. The Parties agree that Atmos Energy shall limit its claims for recovery of expenditures through the SIP over the five year plan to a total of \$75 million.⁵⁶ The Parties recognize that Atmos Energy intends to submit a five-year plan that will likely have lower annual capital expenditures in the earlier years of the plan and larger annual capital expenditures in the later years, and agree that the Atmos Energy shall have reasonable flexibility to vary the amount of capital expenditures claimed for recovery in each year under the plan to the extent that the total amount recovered over the five years does not exceed \$75 million.⁵⁷ In turn, Atmos agrees to spread the total capital investment amount proportionately over each of the five years

⁵² *Id.* at 8.

⁵³ SA at 8.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* at 8-9.

to the extent it is practicable.⁵⁸ All annual capital expenditure amounts shall be reviewed by Staff and CURB and approved by the Commission.⁵⁹

44. As for the schedule relating to the SIP plan, Atmos Energy is required to file its detailed five-year program setting forth its five-year goals, objectives and expected capital expenditures as outlined in its testimony filed in this docket, as well as its first year plan under the program, no later than July 1, 2016.⁶⁰ The filing shall be subject to review by Staff and CURB.⁶¹ The Parties agree to recommend a procedural schedule to the Commission calling for an order regarding the program and the first year of the plan, by November 1, 2016.⁶²

45. For a more detailed explanation on the year-by-year deadlines and filings for the remainder of the proposed SIP tariff, see the SA attached to this Order.

46. The Parties agree that Atmos Energy shall be allowed to continue to make GSRS filings, which would be in addition to the SIP filings.⁶³

47. The Parties agree that if during the five-year pilot program Atmos Energy files a general rate case application, the revenue being recovered under the SIP surcharge shall be included in base rates and the SIP surcharge reset to zero in the same way revenues recovered under the GSRS surcharge are treated in a general rate case filing.⁶⁴

48. In recognition of the pending general investigation in the 15-343 Docket, the Parties agree that the SIP surcharge mechanism would be subject to any changes or additions that

⁵⁸ *Id.* at 9.

⁵⁹ SA at 9.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.* at 11.

⁶⁴ *Id.*

may be required so the SIP complies with any Commission decision issued in the 15-343 Docket.⁶⁵

49. Finally, the Parties agree that any request by Atmos Energy to seek extension of the SIP surcharge beyond the five-year pilot program period shall be filed by Atmos Energy at least one year prior to the expiration of the pilot program.⁶⁶

50. **CLASS COST OF SERVICE AND RATE DESIGN.** The Parties agree that the rate increase would be allocated among the respective classes of customers according to the amounts indicated for each class as shown in Appendix B to the SA and that rates would be adjusted as shown in Appendix C to the SA.⁶⁷

51. The Parties also request that the rates approved by the Commission in this general rate case go into effect on March 1, 2016.⁶⁸

52. Atmos Energy agrees to eliminate the minimum usage threshold for any non-residential customer to be eligible to receive transportation services.⁶⁹ Atmos Energy also agrees to amend its tariffs to allow transportation customers the option of paying for required electronic flow measurement ("EFM") equipment at either the time they elect to take transportation services from Atmos Energy, or to pay for the cost of the EFM equipment through a new incremental monthly charge of \$30.00.⁷⁰ Atmos Energy further agrees not to charge customers for the cost of a new meter or upgrades to the existing meter, if such is required in

⁶⁵ SA at 11.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at 12.

⁷⁰ *Id.*

order to install EFM equipment at the meter.⁷¹ Finally, Atmos Energy agrees to track any migration of small commercial customers from sales to transportation service and identify any impact of such migration on its design day requirements in its annual Purchase Gas Adjustment filings.⁷²

53. Atmos Energy also agrees to submit with its next general rate case filing a class cost of service study that breaks out or separates the cost associated with providing service to customers in the Commercial/Public Authority class and between sales and transportation customers. Specifically, the cost of service study will include the following classes:

Sales Service:

- Residential
- Commercial Sales
- Public Authority Sales
- School Sales
- Industrial Sales
- Small Generator Service Sales
- Interruptible Sales
- Irrigation Sales

Transportation Service:

- Commercial Transportation Firm
- Public Authority Transportation Firm
- School Transportation Firm
- Industrial Transportation Firm
- Small Generator Service Transportation
- Interruptible Transportation
- Irrigation Transportation⁷³

54. **MISCELLANEOUS PROVISIONS.** The Parties propose several miscellaneous provisions that indicate that nothing in the SA is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right of access to

⁷¹ SA at 12.

⁷² *Id.*.

⁷³ *Id.*

information, or any statutory obligation, including the obligation to ensure that Atmos Energy is providing efficient and sufficient service at just and reasonable rates. The SA also details a number of privileges regarding the filing of testimony to support positions, the waiver of cross examination of witnesses and standard language typically included in settlements.⁷⁴

B. RATES: STANDARD OF REVIEW

55. Rates, fares, tools and charges imposed by a public utility upon its customers are required to be just and reasonable, not unjustly or unreasonably discriminatory and not unduly preferential.⁷⁵

56. The Commission, in setting rates for a natural gas utility, must fix rates within a "zone of reasonableness" after balancing interests of the utility's investors, ratepayers and the public.⁷⁶ The Kansas Supreme Court mandates the Commission consider and balance the interests of the utility's investors vs. the ratepayers, the present ratepayers vs. the future ratepayers, and the public interest.⁷⁷ "[C]ases in this area clearly indicate that the goal should be a rate fixed within the 'zone of reasonableness' after the application of a balancing test in which the interests of all concerned parties are considered."⁷⁸

57. In addition to Kansas' own statutes and case law on the subject, the U.S. Supreme Court has established certain principles for the Commission to follow when reviewing rate change applications. *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm 'n of W Va.*, 262 U.S. 679 (1923), and *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944),

⁷⁴ See *Id.* at 13-14.

⁷⁵ *Grindsted Products, Inc. v. Kansas Corp. Com 'n*, 262 Kan. 294, 309 (1997); K.S.A. 66-101d.

⁷⁶ *Kansas Gas and Elec. Co. v. State Corp. Com 'n*, 239 Kan. 483, 488 (1986).

⁷⁷ *Id.*

⁷⁸ *Id.*

provide what this Commission has referred to as the "capital attraction standard."⁷⁹ "The return [on investment] should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties."⁸⁰ "That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital."⁸¹ The Court has also stated however, "[a] rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally."⁸²

58. Also in *Hope Natural Gas*, the U.S. Supreme Court promulgated what this Commission refers to as the "comparable earnings standard."⁸³ "By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks," which would include not only service on a utility's debt but also dividends on the stock.⁸⁴ This, however, does not guarantee it will actually earn its authorized return. "[R]egulation does not insure that the business shall produce net revenues, nor does the Constitution require that the losses of the business in one year shall be restored from future earnings by the device of capitalizing the losses and adding them to the rate base on which a fair return and depreciation allowance is to be earned."⁸⁵

⁷⁹ Order Approving Nonunanimous Stipulation and Agreement with Modification at 3, *Joint Application of Westar Energy, Inc. and Kansas Gas and Electric Co. for Approval to Make Certain Changes in Their Charges for Electric Service*, Docket No. 12-WSEE-112-RTS (Apr. 18, 2012) [*hereinafter* 12-112 Docket].

⁸⁰ *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 693 (1923) (emphasis added).

⁸¹ *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

⁸² *Bluefield Waterworks*, 262 U.S. at 693.

⁸³ 12-112 Docket, at 3.

⁸⁴ *Hope Natural Gas*, 320 U.S. at 603.

⁸⁵ *Fed. Power Comm'n v. Natural Gas Pipeline Co. v. Am.*, 315 U.S. 575, 590 (1942).

59. These standards taken together stand for the general idea that the return provided to a utility's investors (1) should be consistent with other businesses having similar risks and (2) the adequacy of the return for servicing debt and paying dividends be able to support a utility's credit quality, access to capital, and financial integrity. "The KCC is required to balance the public need for adequate, efficient, and reasonable service with the public utility's need for sufficient revenue to meet the cost of furnishing service and to earn a reasonable profit."⁸⁶

60. The Commission may accept a settlement agreement provided an independent finding is made, supported by substantial evidence in the record as a whole, that the settlement will establish just and reasonable rates.⁸⁷ The Commission may utilize a five-factor test to aid in the review of settlement agreements. The factors are as follows:

- 1) whether there was an opportunity for the opposing party to be heard on their reasons for opposition to the stipulation and agreement;
- 2) whether the stipulation and agreement is supported by substantial competent evidence;
- 3) whether the stipulation and agreement conforms with applicable law;
- 4) whether the stipulation and agreement results in just and reasonable rates;
- 5) whether the results of the stipulation and agreement are in the public interest⁸⁸

C. RATES: ANALYSIS

61. While the Commission recognizes that the SIP Tariff is a charge within the Commission's authority to evaluate and it is part and parcel to the settlement, the Commission

⁸⁶*Danisco Ingredients USA, Inc. v. Kansas City Power & Light Co.*, 267 Kan. 760, 773 (1999).

⁸⁷*Citizens' Util. Ratepayer Bd. v. State Corp. Comm 'n of State of Kansas*, 28 Kan. App. 2d 313, 316 (2000).

⁸⁸Order Approving Contested Settlement Agreement at 5-6, *Application of Atmos Energy for Adjustment of its Natural Gas Rates in the State of Kansas*, Docket No. 08-ATMG-280-RTS (May 12, 2008).

defers that conversation to later in this Order. The following analysis addresses the rate requests other than the SIP tariff.

The Opportunity to be Heard Upon Opposition and Substantial Competent Evidence.

62. A full analysis of the five factors is not always necessary when a unanimous settlement is before the Commission. Under such circumstances, certain factors may be applied and satisfied in short order. In reaching a unanimous settlement, no party can be said to be in opposition. In lieu of making arguments upon the evidence in the record, the Parties are acknowledging that the record is sufficient to commit to compromise.

63. Orders issued by the Commission are considered reasonable if they are based upon substantial competent evidence.⁸⁹ Applying the same standard to the SA that is applied to orders issued by the Commission, the Commission finds that the SA is based upon substantial competent evidence. The Commission's standard has been to review settlement agreements in light of the record as a whole. This allows the Commission to determine where such an agreement and its terms lie in relation to the terms of the previously articulated positions of the parties. Upon examining the record as a whole, it is clear that there is sufficient evidence used to support the parties' initial positions, and therefore evidence to support how the parties were able to reach a negotiated settlement. The proceedings established the scope and breadth of the record in this case as discussed above.⁹⁰ The Commission finds the record, and supplementary filings used to support the SA, establish the substantial competent evidence necessary to support settlement. Therefore, the Commission finds that the first two factors are satisfied.

⁸⁹ *Cent. Kansas Power Co. v. State Corp. Comm'n*, 221 Kan. 505, 511 (1977).

⁹⁰ *See supra* Part I.

Does the S&A Conform to Applicable Law?

64. It does not appear that any party has raised concern that the proposed SA may be unlawful. Regardless, the Commission is required to undertake its own independent review.⁹¹ Determining whether the SA conforms with applicable law requires the Commission to assume that the SA would be approved and be subject to judicial scrutiny the same as any other order of the Commission. In other words, would the SA conform to applicable law and survive judicial review if the Commission had established the terms of the SA under its own judgment? Such an inquiry requires the Commission to examine the reasonableness and lawfulness of the order.

65. An order of the Commission is lawful if it is within the statutory authority of the Commission, and if the prescribed statutory and procedural rules are followed in the making of the order.⁹² The Commission has wide discretion regarding rates for public utilities.⁹³ Specifically, K.S.A. 66-117 requires public utilities seek Commission approval prior to changing any rate for which it charges customers for the use of electricity. Because “the law favors the amicable settlement of disputes,”⁹⁴ it follows that if parties come to such a resolution, their resolution could seek to adjust rates for a public utility. The adjustment of rates agreed to via compromise between parties is still subject to Commission approval. Therefore, it is well within the lawful authority and jurisdiction of the Commission to consider this SA as it adjusts rates for a public utility subject to the Commission’s jurisdiction and oversight.⁹⁵

⁹¹ See *Citizens’ Util. Ratepayer Bd. v. State Corp. Comm’n of State of Kansas*, 28 Kan. App. 2d 313, 316 (2000).

⁹² *Cent. Kansas Power Co. v. State Corp. Comm’n*, 221 Kan. 505, 511 (1977).

⁹³ *Id.*

⁹⁴ *Int’l Motor Rebuilding Co. v. United Motor Exch., Inc.*, 193 Kan. 497, 499 (1964).

⁹⁵ See *supra* Part I.B.

66. Rates established by the Commission must be just and reasonable.⁹⁶ In developing five questions to review settlement agreements, the Commission dedicated one question to examine the “just and reasonable” standard alone. As such, the Commission defers discussion of that item to a separate part of this order.

67. The Parties and the Commission complied with all procedural rules within this docket. The Parties and the Commission complied with the procedural schedules, the issuance of orders and the disposition of preliminary matters in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, which K.S.A. 66-117 requires the Commission to follow when reviewing a public utility’s application to change rates. The Commission may therefore find that the prescribed statutory and procedural rules for reviewing the SA and issuing this order have been followed. As stated above, the SA is also based upon substantial competent evidence in light of the record as a whole.⁹⁷

68. The Commission therefore finds that the SA complies with applicable law.

Does the Settlement Result in Just and Reasonable Rates?

69. Natural gas utilities, such as Atmos Energy, are required to provide reasonably efficient and sufficient service at just and reasonable rates.⁹⁸ In determining what constitutes a just and reasonable rate, the Commission has broad discretion.⁹⁹ As promulgated by the U.S. Supreme Court and adopted by the Kansas Court of Appeals, just and reasonable rates must fall

⁹⁶ K.S.A. 66-101b.

⁹⁷ *See Cent. Kansas Power Co.*, 221 Kan. at 511.

⁹⁸ K.S.A. 66-1,202.

⁹⁹ *Citizens' Util. Ratepayer Bd. v. State Corp. Comm'n of Kansas*, 47 Kan.App.2d 1112, 1131 (2012).

within a "zone of reasonableness."¹⁰⁰ As Mr. Justin T. Grady testified, the initial filed positions from all of the signatories to the Settlement represent the "zone of reasonableness" for the Commission to consider.¹⁰¹

70. Atmos Energy witness Mr. Gary L. Smith testified in support of the Settlement. Mr. Smith testified that the agreed-upon revenue increase falls within the range of increases proposed by the Parties in this case.¹⁰² Mr. Smith testified the schedules filed by Atmos Energy indicated a gross revenue deficiency of \$6.6 million.¹⁰³ Staff recommended an increase of \$1.49 million. CURB recommended a revenue decrease of \$716.730.¹⁰⁴ Mr. Smith testified that the revenue increase clearly fell within a zone of reasonableness when considering that the stipulated increase is well within the position of the Parties.¹⁰⁵ When combined with the evidence presented by the Parties' experts, Mr. Smith testified the stipulated revenue requirement is supported by substantial competent evidence and results in just and reasonable rates.¹⁰⁶

71. Mr. Grady testified that he believed the rates established in the SA would result in rates that fall within the "zone of reasonableness."¹⁰⁷ Mr. Grady testified that the agreed-to revenue requirement increase struck the appropriate balance between Atmos Energy's desire to have assurance that it could earn sufficient revenue and cash flow to meet its financial obligations, and the desire of the ratepayer to keep rates low while maintaining reliable natural

¹⁰⁰ *Kansas Gas and Elec. Co.*, 239 Kan. at 488.

¹⁰¹ Testimony in Support of Unanimous Settlement Agreement Prepared by Justin T. Grady at 13 (Jan. 21, 2016) [*hereinafter* Grady SA Test.].

¹⁰² Testimony in Support of Unanimous Settlement Agreement of Gary L. Smith at 17, (Jan. 21, 2016) [*hereinafter* Smith SA Test.].

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Grady SA Test. at 13.

gas service.¹⁰⁸ Mr. Grady further theorized that if any particular party to settlement negotiations took issue with an unfavorable term related to their respective interest, they would not have joined or consented to the SA.¹⁰⁹ Therefore, because parties with widely different interests were represented and later joined together to become signatories to the SA, Mr. Grady concluded that the proposed terms of the SA, specifically the revenue increase, could be viewed as reasonable from the viewpoint of the signatories.¹¹⁰ As Mr. Grady postulates, if the terms were not just or reasonable, then a unanimous settlement could not have been reached.¹¹¹

72. Ms. Andrea C. Crane testified in support of the SA on behalf of CURB. Like Mr. Smith and Mr. Grady, Ms. Crane testified that approval of the SA would result in just and reasonable rates.¹¹² Ms. Crane spoke specifically to the terms of the SA, and how Atmos Energy's net revenue increase in the SA is only approximately 33.5% of what Atmos Energy had initially proposed in its Application.¹¹³

73. The requirement that just and reasonable rates fall within a zone of reasonableness is used to determine whether a particular rate is contained within an "elusive range of reasonableness in calculating a fair rate of return."¹¹⁴ The Commission acts within the discretion granted to it when it searches for and finds an in-between point "where the rate is most fair to the utility and the customers."¹¹⁵ The Commission has reviewed the filed positions of the parties. No evidence has been presented to the Commission suggesting that approval of the rates as

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* at 14, lines 10-19.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Testimony of Andrea C. Crane in Support of Stipulation at 11-12 (Jan. 21, 2016) [hereinafter Crane SA Test.].

¹¹³ *Id.*

¹¹⁴ *Kansas Gas and Elec. Co.*, 239 Kan. at 490.

¹¹⁵ *Id.*

described in the Settlement would in any way be unjust or unreasonable, or make service unaffordable to customers. Therefore, the terms of the SA will result in rates that are not unduly burdensome, unduly preferential, or unreasonably discriminatory. The Commission has also reviewed the terms of the SA and its impact on the relationship between the utility's investors, the present ratepayer's and future ratepayers, and the public interest. The Commission has set aside as a separate question whether the SA is in the public interest and will defer discussion on that item until the next section of this order.

74. The Commission finds the terms contained within the SA fall within a zone of reasonableness and appropriately balance the interests of Atmos Energy's investors and ratepayers, and with present ratepayers vs. future ratepayers. The evidence submitted in this proceeding has compelled the Commission to find that the SA will allow the utility to continue to meet its financial obligations while earning a return on investment that is commiserate with businesses of similar risks. The Commission further finds that ratepayers will benefit from the SA as they will continue to have access to affordable natural gas with the confidence that Atmos Energy will continue to be able to provide such service. Terms contained within the SA are designed to maintain or improve service quality while maintaining low costs.

75. The Commission has taken into consideration the competing interests as described by the Court when the Commission exercises its power in the setting of rates. The Commission finds that the agreed-upon net revenue increase and terms of the SA fall within the zone of reasonableness to which the Commission must adhere. The SA represents a series of compromises set and agreed to by the Joint Movants. The rates established by the SA will allow Atmos Energy to continue to meet its financial obligations, as well as its statutory obligation to

provide efficient and sufficient service at just and reasonable rates. Therefore, the Commission finds the SA with regard to the rates and rate structures will result in just and reasonable rates for Atmos Energy's customers.

Are the Results of the S&A in the Public Interest?

76. Mr. Smith testified that the SA is in the public interest because the total effect of the terms of the SA will result in just and reasonable rates and represents an equitable balancing of the interest of all of the Parties.¹¹⁶ Mr. Smith concluded the approval of the SA and the rates identified in Appendix C to the SA would be in the public interest.¹¹⁷

77. Mr. Grady testified that the public interest is served "when ratepayers are protected from unnecessarily high prices, discriminatory prices and/or unreliable service."¹¹⁸ According to Mr. Grady, because varied interests were able to collaborate and present a unanimous resolution of the issues in this case, the public interest standard has been met.¹¹⁹ Mr. Grady gave an example of how the rates are in the public interest by highlighting the fact that Atmos Energy's requested revenue is reduced to a level that Atmos Energy still finds reasonable while at the same time decreasing the proposed cost customers would bear.¹²⁰ Mr. Grady additionally stated that the public will not have to potentially absorb the cost of a fully-litigated hearing, and the utility will continue to meet its financial obligations while providing sufficient and efficient service.¹²¹

¹¹⁶ Smith SA Test at 18.

¹¹⁷ *Id.*

¹¹⁸ Grady SA Test. at 16.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

78. Ms. Crane also testified that approval of the SA is in the public interest.¹²² Ms. Crane described how the SA was a significant reduction from Atmos Energy's initial request, and how the customer charge would be set much lower than Atmos Energy's initial request and remain at that level until Atmos Energy's next general rate case.¹²³ Ms. Crane further expanded on the importance of rate stability, how the SA withdraws certain proposals CURB took particular opposition to and how the SA authorizes a return on investment that is significantly lower than what Atmos Energy had requested.¹²⁴ Ms. Crane concluded her remarks by stating "while the Settlement represents a compromise of the positions put forth by the Parties in this case, on balance I believe the Settlement is in the public interest."¹²⁵

79. To support a finding that the SA is in the public interest the Commission must examine the information as filed in this docket and conclude that the interests of the ratepayers and Kansans will continue to be promoted if the SA were to be approved. Atmos Energy, Staff and CURB have all testified regarding dozens of provisions contained within the SA and detailed how those terms are in the public's interest. The Commission's focus for this inquiry turns on the result or total effect of the SA. The manner in which the terms of the SA were constructed evidences the SA is in the public interest. Multiple parties from a diverse set of interests encompassing large ranges of customers have concluded that the terms of the SA will allow them to continue to take service from Atmos Energy in a manner acceptable to them. The SA allows Atmos Energy to recover costs from prudently incurred expenses. Based upon the wide ranging support and lack of opposition to the SA, as well as how the SA will affect ratepayers if

¹²² Crane SA Test. at 13.

¹²³ *Id.*

¹²⁴ *Id.* at 13-14.

¹²⁵ *Id.* at 14.

approved, the Commission is confident in finding that approval of the SA is in the public interest.

D. ABBREVIATED RATE CASE

80. The Parties request Atmos Energy be granted pre-approval to file an abbreviated rate case.¹²⁶ Pursuant to K.A.R. 82-1-231(b)(3), a utility proposing to change rates within 12 months after a Commission order is issued in a general rate proceeding may do so without submitting duplicative information provided certain conditions are met.¹²⁷

81. First, the utility must be willing to adopt all regulatory procedures, principles, and rate of return established by the Commission in the order setting rates from the general rate case.¹²⁸ Second, the utility must receive prior approval from the Commission before filing such an abbreviated rate case.¹²⁹

82. Consistent with the terms contained within the SA, the Commission grants Atmos Energy's request to file an abbreviated rate case no later than one year from the effective date of this order.

83. The Commission hereby limits matters to be addressed during Atmos Energy's abbreviated rate case to items specifically listed and identified in the SA as being subject to the abbreviated rate proceeding.¹³⁰

¹²⁶ SA at 7.

¹²⁷ K.A.R. 82-1-231(b)(3).

¹²⁸ See K.A.R. 82-1-231(b)(3)(A).

¹²⁹ K.A.R. 82-1-231(b)(3)(B).

¹³⁰ SA at 7.

E. THREE-YEAR RATE MORATORIUM

84. The Commission approves the three-year rate moratorium for the following reasons: the Parties are in agreement that the moratorium is appropriate; the provision is not subject to severability without undoing the entirety of the SA; the Commission finds the requests with regard to base rates just, reasonable and in the public interest; and, the Commission approves of the abbreviated rate case.

85. However, in the event of changes in law or regulations, or the occurrence of events outside the control of Atmos Energy that result in a material adverse impact to Atmos Energy, Atmos Energy may file an application with the Commission proposing methods to address the impact of such events, including the possibility of changes to base rates. Interested parties shall have the right to contest the application, including whether the impact of the change or events are material to Atmos Energy and whether Atmos Energy's proposed remedy in the application is reasonable.¹³¹ The Commission retains the authority to ultimately determine the validity of such requests and whether the events that prompt them do materially impact Atmos Energy adversely.

F. SYSTEM INTEGRITY PROGRAM TARIFF.

86. In Atmos Energy's last general rate case, the Commission denied Atmos Energy's request to implement a "system integrity regulatory asset (RA) to record all costs, including depreciation and taxes, incurred with respect to 'system integrity projects.'"¹³² Although

¹³¹ See SA at 8.

¹³² Order Approving Partial Stipulated Settlement Agreement: Order on Contested Issues at 15-17, *Application of Atmos Energy for Adjustment of its Natural Gas Rates in the State of Kansas*, Docket No. 14-ATMG-320-RTS (Sep. 4, 2014).

denying the program at that time, the Commission left the door open to future discussion on how best to implement such programs.

The Commission would, however, entertain the possibility of roundtable discussions with industry to discuss proposing to the legislature either an adjustment to the GSRS Act or an additional system integrity RA as well as any specific projects, goals, and concerns that it would address. Additionally, the Commission finds its decision on the RA in this case does not prevent its consideration of other infrastructure improvement mechanisms which Atmos or other utilities may propose in the future.¹³³

87. On March 12, 2015, the Commission opened the 15-343 Docket, a general investigation docket “to receive comments on proposed parameters of an accelerated natural gas pipeline replacement program.”¹³⁴

88. The Parties in the current matter agree that the “SIP surcharge mechanism being submitted by the Parties as part of this Settlement shall be subject to any changes or additions that may be required so the SIP complies with any Commission decision issued in the [15-343] Docket.”¹³⁵ The SA further stipulates that if the SIP is deferred to the 15-343 Docket, the remainder of the SA will remain unaffected and binding upon the Parties.

89. The Commission finds that the 15-343 Docket provides for the opportunity to fully discuss and analyze the legalities and intricacies and that the 15-343 Docket achieves that by involving multiple affected natural gas utilities and other interested parties. The Commission believes that the intent of the 15-343 Docket and the results thereof were intended as precursors to approval of any one individual program. The Commission therefore believes that approval of the SIP in this matter is premature. The Commission’s opinion on the SIP in this docket does not

¹³³ *Id.* at 17.

¹³⁴ Order Opening General Investigation at 1, *General Investigation Regarding the Acceleration of Replacement of Natural Gas Pipelines Constructed of Obsolete Materials Considered to be a Safety Risk*, Docket No. 15-GIMG-343-G1G (Mar. 12, 2015) [*hereinafter* 15-343 Docket].

¹³⁵ S&A at 11.

mean similar programs will not be considered in future rate cases, albeit presumably not before conclusion of the 15-343 Docket. The Commission's opinion to not adopt the SIP in this docket is not an adjudication as to any issue pending currently in the 15-343 Docket.

90. For the reasons stated above and in order to fully resolve this Docket, the Commission denies Atmos Energy's request to implement its SIP Tariff at this time.

III. FINDINGS AND CONCLUSION.

91. The Commission has examined the statutory and legal standards the Commission must consider when reviewing a request for rate changes, and has examined the voluminous record as a whole developed in this proceeding. Upon reviewing the terms contained within the SA, the Commission accepts the terms detailed within the SA, with the exception of the SIP Tariff.

92. The Commission finds that approval of the SA will result in just and reasonable rates that would enable Atmos Energy to continue to provide sufficient and efficient service. The Commission finds that the rates established by the SA conform and fall within the zone of reasonableness that properly balances the interests of the Parties to this proceeding, the ratepayers, and the public.

93. Upon reviewing the SA, its terms individually, the Parties' filed positions in this proceeding, testimony and evidence in support of the SA, the Commission finds that the Joint Motion to Approve the Unanimous Settlement Agreement should be granted in part and denied in part consistent with the provisions of this Order.

THEREFORE, THE COMMISSION ORDERS:

A. The Joint Motion to Approve the Unanimous Settlement Agreement is hereby granted in part and denied in part.

B. The rates, schedules and provisions pertaining to the revenue requirement, depreciation rates, foregoing the ARM, the WNA Tariff, pre-tax rate of return, the AVTS rider, pension and post-retirement benefit trackers, amortization periods and rate design as outlined by the Unanimous Settlement Agreement filed on January 20, 2016, are hereby approved. Atmos Energy's net overall annual revenue increase shall be set at \$2,218,903.00.

C. Atmos Energy is granted approval to file an abbreviated rate case pursuant to K.A.R. 82-1-231.

D. Atmos Energy shall not file a general rate case before July 1, 2018.

E. The approval and implementation of the System Integrity Program Tariff put forth as to form and substance in the Unanimous Settlement Agreement is denied.

F. The request to make effective March 1, 2016 the changes in rates, tolls and charges as herein discussed is denied by operation of the timeliness of this order. The rates, tolls and charges shall become effective in accordance with K.S.A. 66-117.

G. The parties have 15 days from the date of electronic service of this Order to petition for reconsideration.¹³⁶

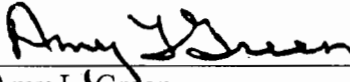
H. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it deems necessary.

¹³⁶ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Emler, Chairman; Albrecht, Commissioner (dissenting in part); Apple, Commissioner.

Dated: **MAR 17 2016**



Amy L. Green
Secretary to the Commission

DLK/sc

EMAILED

MAR 17 2016

Albrecht, Commissioner; Dissenting in part.

On January 20, 2016, the Parties jointly submitted a motion to approve a Unanimous Settlement Agreement (SA), resolving all disputed issues, including the System Integrity Program (SIP) tariff for replacing obsolete gas pipeline infrastructure. I respectfully dissent from the portion of the Commission’s decision specifically denying the SIP tariff.

The SIP tariff included in this docket is not the first infrastructure replacement mechanism Atmos Energy Corporation (Atmos Energy) has requested. On September 4, 2014, the Commission denied Atmos Energy’s previous request, explaining the mechanism was “too broad, poorly defined, and ambiguous” and “unnecessary in light of the current [Gas Safety and Reliability Surcharge] GSRS Act [K.S.A. 2015 Supp. 66-2201 *et seq.*] as enacted by the legislature.”¹³⁷ The Commission said it would “entertain the possibility of roundtable discussions with industry to discuss proposing to the legislature either an adjustment to the

¹³⁷ Order Approving Partial Stipulated Settlement Agreement: Order on Contested Issues at 16, *Application of Atmos Energy for Adjustment of its Natural Gas Rates in the State of Kansas*, Docket No. 14-ATMG-320-RTS (Sep. 4, 2014) [*hereinafter* 14-320 Docket].

GSRs Act or an additional system integrity [Regulatory Asset] as well as any specific projects, goals, and concerns”¹³⁸

Additionally, and more importantly for purposes here, the Commission expressly found that its decision would “not prevent its consideration of other infrastructure improvement mechanisms which Atmos [Energy] or other utilities may propose in the future.”¹³⁹ I believe this prior order correctly reflects the Commission’s intent, at the time, to encourage Atmos Energy or other gas utilities to develop a defined infrastructure replacement mechanism tailored to address the important public safety concern of their own aging natural gas delivery system.

On March 12, 2015, the Commission opened the *General Investigation Regarding the Acceleration of Replacement of Natural Gas Pipelines Constructed of Obsolete Materials Considered to be a Safety Risk*, Docket No. 15-GIMG-343-GIG (Mar. 12, 2015) [*hereinafter* 15-343 Docket]. As noted and adopted in the Order Opening General Investigation, Staff reported that after meetings with Kansas natural gas utilities and Commission work studies, they had developed a framework with eleven parameters for a pipeline replacement program that could be uniformly applied to Kansas natural gas utilities.¹⁴⁰

When it filed its Application here, on August 13, 2015, Atmos Energy included a SIP proposal that addressed Staff’s eleven parameters on which the Commission is seeking comment in the 15-343 Docket.¹⁴¹ At the hearing on the SA, the parties presented evidence demonstrating they had considered and addressed the Commission’s concerns expressed in the 14-320 Docket. The SA proposes a SIP that anticipates a 35-year replacement time frame; establishes a five-year

¹³⁸ *Id.* at 17.

¹³⁹ *Id.*

¹⁴⁰ Order Opening General Investigation at 2-3, 15-343 Docket (Mar. 12, 2015).

¹⁴¹ Direct Testimony of Gary L. Smith at 20-23 (Aug. 13, 2015).

pilot program beginning January 1, 2017; sets a \$75 million total cap on cost recovery during the five-year period (approximately \$15 million per year); and requires Atmos Energy to establish and receive Commission approval for an upfront list of projects, to establish a project prioritization metric, to file annual project plan updates, and to submit semi-annual reports.

The Parties' SIP tariff in the SA is appropriately limited in scope and duration, is well-defined, and provides multiple checks and balances on the SIP's implementation. The SIP tariff provides an opportunity for Atmos Energy, the Citizens' Utility Ratepayer Board (CURB), and Staff to collaborate on a long-term infrastructure replacement plan to ensure public safety and system reliability. The SIP provides revenue certainty for Atmos Energy and rate certainty for Atmos Energy's customers at a time when natural gas prices are low, taking a phased-in approach that is open and transparent.

The Parties were also mindful and respectful of the ongoing 15-343 Docket. The Parties expressly conditioned the SIP tariff on the outcome of the 15-343 Docket. Thus, the Commission's approval of the SIP would not prejudice, limit, or otherwise circumscribe any evidence, analysis, or decision in the 15-343 Docket. The Parties' SA states the SIP provisions may be modified and the terms of the SA effectively state Atmos Energy is willing to be treated the same as other natural gas utilities on the issue of the accelerated replacement of obsolete pipeline materials. As a result, this SIP is not premature but accommodating of the Commission and its work presently done and to be completed in the 15-343 Docket.

Without the agreed SIP provision, Atmos Energy projects it will take 187 years to replace the obsolete materials in its system.¹⁴² These obsolete materials comprise 42% of Atmos

¹⁴² Direct Testimony of Christian L. Paige at 2, 7-9, 11-17 (Aug. 13, 2015).

Energy's total Kansas system.¹⁴³ The evidence shows the proposed SIP to be a reasonable and prudent approach to replacing aging natural gas pipeline infrastructure.¹⁴⁴ As stated by Staff witness Leo Haynos, "[r]eplacement of obsolete, failure-prone pipe minimizes the probability of pipe failure and thereby proactively reduces the risk associated with operating the pipeline."¹⁴⁵ Furthermore, "[the] SIP provides a systematic approach toward evaluating the safety risks of the distribution system and prioritizing the replacement activity to address perceived safety threats."¹⁴⁶

Because Kansas law favors settlement,¹⁴⁷ the Commission should have more reasons than expressed here for rejecting a unanimous settlement agreement, especially one with a procedural history spanning three dockets and resulting from nearly two years of collaboration. Throughout this proceeding, all Parties have been fully represented by legal counsel, who signed the unanimous settlement agreement.

As the Parties' presentations and evidence have demonstrated in this case, replacing obsolete natural gas pipeline infrastructure will be a lengthy process, better phased in gradually to avoid rate shock to ratepayers. I believe the Commission should abide by its intent expressed in the 14-320 Docket of encouraging all parties to work expeditiously and cooperatively to address these issues. I therefore respectfully dissent from the Commission's decision to deny Atmos Energy's SIP tariff.

¹⁴³ Direct Testimony Prepared by Leo M. Haynos at 6, 12 (Dec. 21, 2015).

¹⁴⁴ *Id.* at 6-13.

¹⁴⁵ *Id.* at 5.

¹⁴⁶ *Id.* at 6.

¹⁴⁷ *Int'l Motor Rebuilding Co. v. United Motor Exch., Inc.*, 193 Kan. 497, 499 (1964); *see* K.S.A. 2015 Supp. 77-505.

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Atmos)
Energy Corporation for Adjustment of its)
Natural Gas Rates in the State of Kansas) Docket No. 16-ATMG-079-RTS

UNANIMOUS SETTLEMENT AGREEMENT

As a result of discussions between the Staff of the State Corporation Commission of the State of Kansas ("Staff"), Atmos Energy Corporation ("Atmos Energy"), the Citizens' Utility Ratepayer Board ("CURB"), and Continuum Retail Energy Service, L.L.C. ("Continuum") (referred to collectively as the "Parties"), the Parties hereby submit to the State Corporation Commission of the State of Kansas ("Commission") for its consideration and approval, the following unanimous settlement agreement ("Settlement") pursuant to K.A.R. 82-1-230a.

I. ATMOS ENERGY'S APPLICATION

1. On August 13, 2015, Atmos Energy filed an Application with the Commission to make certain changes in its rates and charges for natural gas service, to seek approval of a formula rate mechanism referred to as an Annual Rate Mechanism ("ARM"), or in the alternative, for approval to file an abbreviated docket to update rates to reflect new infrastructure investment, and approval of a System Integrity Program ("SIP") tariff to accelerate progress in replacing obsolete materials in its distribution system. Atmos Energy proposed that the rate changes and revised Staff schedules become effective thirty (30) days from the date of filing, as permitted by law, or at such other date as the Commission may by order prescribe.¹ Pursuant to the September 10, 2015, Order of the Commission, the effective date of this Application filed herein was suspended for up to 240

¹Atmos Energy Application filed August 13, 2016, page 5, paragraph 11.

days, or until April 11, 2016.²

2. The schedules filed with Atmos Energy's Application indicated a gross revenue deficiency of \$6.6 million based upon normalized operating results for the 12 months ending March 31, 2015, adjusted for known and measurable changes in revenues, operating and maintenance expenses, costs of capital and taxes, and other adjustments. Atmos Energy's request for an overall revenue increase of \$6.6 million is the result of increasing base rates by \$5.7 million, proposing a rate case expense surcharge of \$0.950 million, and rebasing amounts currently collected through the Gas System Reliability Surcharge ("GSRS") of \$0.388 million as well as rebasing \$0.078 million of Ad Valorem Tax Surcharge ("AVTS").

3. In support of its Application, Atmos Energy submitted the testimony of thirteen witnesses and the schedules required by K.A.R. 82-1-231.

II. STAFF AND OTHER PARTIES' PREFILED POSITIONS

4. On December 21, 2015, Staff filed its direct testimony in the above docket, recommending a rate increase of \$1.49 million for Atmos Energy. Staff recommended additional adjustments to Atmos Energy's proposed depreciation rates for shared services and raised several policy questions related to the calculation of depreciation rates. In addition, Staff made recommendations regarding return on equity, adjustments to the income statements and rate base, Atmos Energy's requested ARM, SIP, and rate case expense rider. Staff supported an abbreviated rate filing conditioned upon the utility agreeing to a three year rate moratorium.

²Commission Order dated September 10, 2015, page 10, paragraph 23.

5. Also on December 21, 2015, CURB filed testimony in which it recommended a revenue decrease of \$716,730 as compared to Atmos Energy's claimed deficiency of \$5.7 million, opposed Atmos Energy's requested ARM, and rate case expense rider and suggested any decision regarding the SIP should be deferred to Docket No. 15-GIMG-343-GIG ("343 Docket").

6. On December 21, 2015, Continuum filed testimony making recommendations as to (1) allocating revenues to the transportation class; (2) equalizing transportation class rates to their companion sales class rates; (3) eliminating the minimum annual usage requirement or threshold for a customer to qualify to receive transportation service; and (4) setting a threshold for when electronic flow measurement ("EFM") equipment is required.

7. On January 5, 2016, CURB and Continuum filed cross-answering testimony on various cost allocation and rate design matters. Additionally, CURB filed cross-answering testimony to Staff's testimony regarding Atmos Energy's proposed SIP tariff.

8. Atmos Energy filed rebuttal testimony on January 11, 2016.

9. Subsequently, on January 14, 2016, Staff, Atmos Energy, CURB and Continuum met to discuss the possible settlement of the issues in this matter, and were able to reach a unanimous settlement on all issues on January 15, 2016.

III. TERMS OF THE SETTLEMENT

The Parties have agreed upon the following terms that settle all issues raised in this case. This settlement is a unanimous settlement as that term is defined in K.A.R. 82-1-230a(2).

A. STIPULATED REVENUE REQUIREMENT

10. The Parties agree that Atmos Energy's overall annual revenue increase will be two million two hundred eighteen thousand nine hundred three dollars (\$2,218,903), which is inclusive of rate case expense. The Parties agree that Atmos Energy shall roll into base rates the existing

balance in the GSRS (\$0.388 million) and AVTS riders (\$0.078 million) and those amounts are included in the \$2.22 million annual revenue increase agreed to by the Parties.

B. MISCELLANEOUS ISSUES

(1) **DEPRECIATION RATES**

11. The Parties agree the revenue requirement specified in paragraph 10 above includes a decrease in Atmos Energy's Shared Service depreciation expense consistent with the depreciation rates proposed by Staff witness Roxie McCullar and set forth in **Appendix A** to this Settlement. The Parties also agree that the revenue requirement specified in paragraph 10 above includes the Colorado/Kansas division depreciation rates proposed by Atmos witness Dane Watson. Atmos Energy agrees it will adopt the depreciation rates in **Appendix A**. By agreeing to Staff's depreciation proposal for Shared Service assets and Atmos Energy's depreciation rates for Colorado/Kansas division assets no Party is agreeing to any policy recommendations made by Ms. McCullar or Mr. Watson. The Parties agree the policy recommendations made by Ms. McCullar and Mr. Watson regarding ALG v. ELG may be addressed in future general rate case filings.

(2) **ANNUAL RATE MECHANISM**

12. The Parties agree that Atmos Energy will not implement its proposed ARM tariff.

(3) **WNA FACTOR**

13. The Parties agree that Atmos Energy shall be allowed to use its currently approved WNA factors and that its WNA tariff shall remain in effect.

(4) **PRE-TAX RATE OF RETURN**

14. While the Parties acknowledge that no stated return on equity is included in the Settlement, Atmos Energy is authorized to use 11.04% until its next general rate proceeding as its overall pre-tax rate of return for regulatory accounting purposes as well as for the abbreviated rate

case discussed herein, for GSRS and SIP filings. The Parties agree to the use of the indicated overall pre-tax rate of return for settlement purposes only and do not view such as precedential.

C. ACCOUNTING MATTERS

(1) **AD VALOREM TAX SURCHARGE RIDER**

15. For purposes of filing Atmos Energy's AVTS Rider in December 2016 and subsequent years until rebased by Atmos Energy's next general base rate case, the Parties agree that the Ad Valorem Tax expense embedded in base rates shall be \$6,526,565, less capitalized amounts of (\$87,597) for a net amount in base rates of \$6,438,968. For purposes of calculating the December 2016 rider, the Parties agree to prorate the base rate amount between (a) ad valorem tax expense embedded in base rates for the current docket, effective with the date the rate increase is implemented; and (b) for the period between January 1, 2016, and the date the rates are made effective in this docket, the Ad Valorem Tax expenses used will be the base rate amount in Atmos Energy's 2014 rate case, Docket No. 14-ATMG-320-RTS.

(2) **PENSION AND POST RETIREMENT BENEFIT TRACKERS**

16. For purposes of calculating Atmos Energy's pension tracker going forward, the Parties agree that the base rates agreed to in this Settlement include the following expenses:

- a. Atmos Energy's Pension Expense for Kansas Direct: \$404,898;
- b. Atmos Energy's Pension Expense for Shared Services: \$243,500;
- c. Atmos Energy's Post Retirement Expense for Kansas Direct: \$274,748;
- d. Atmos Energy's Post Retirement Expense for Shared Services: \$168,700.

(3) **AMORTIZATION PERIODS**

17. Amortization periods are as follows:

- a. Actual rate case expense, plus remaining uncollected balance from previous

rate cases, shall be amortized over three years. Atmos Energy shall not include any rate case expense from any prior general rate case filing, including this rate case, in its next general rate case application.

b. Pension and post retirement trackers shall be amortized over three years.

D. ABBREVIATED RATE CASE FILING

18. The Parties agree that Atmos Energy may use the abbreviated rate setting process contained in K.A.R. 82-1-231(b)(3) to (1) update rates to include non-growth related capital costs closed after September 30, 2015, not included in a GSRS or SIP filing, and (2) recover cost of the abbreviated rate case filing. Atmos Energy shall use a test period ending September 30, 2016. The Parties agree that Staff shall include known and measurable updates to said non-growth related capital costs through March 31, 2017. Updated rates approved in the abbreviated rate case shall go into effect no later than September 1, 2017. For purposes of the abbreviated rate case filing: (1) the 11.04% pre-tax overall rate of return shall be used to set rates; and (2) the increase in revenue requirement shall be allocated among customer classes based upon the same percentages reflected in **Appendix B** to this Settlement. The Parties request the Commission to expressly grant Atmos Energy prior approval to file this abbreviated rate case pursuant to K.A.R. 82-1-231(b)(3).

E. THREE YEAR RATE MORATORIUM

19. Subject to the Parties' agreement that Atmos Energy shall be allowed to change base rates using the abbreviated rate case filing as set forth herein, the Parties agree that Atmos Energy shall not make any other change its base rates prior to March 1, 2019. Atmos Energy may file a general rate case application after July 1, 2018, but the effective date of said change shall not be prior to March 1, 2019.

20. The time limitation on filing a general rate case to change base rates does not

preclude Atmos Energy from changing rates or tariffs to recover appropriate costs under its Commission approved Purchased Gas Adjustment ("PGA"), Annual Cost Adjustment ("ACA"), WNA, AVTS rider and GSRS tariffs and the SIP tariff included in this Settlement.

21. Atmos Energy may make tariff filings to comply with new Commission rules and policies, including revenue neutral changes to rate design and Atmos Energy may propose methods resulting from the new Commission rules and policies.

22. Notwithstanding the above provisions relating to the rate moratorium, in the event of changes in law or regulations, or the occurrence of events outside the control of Atmos Energy that result in a material adverse impact to Atmos Energy, Atmos Energy may file an application with the Commission proposing methods to address the impact of such events, including the possibility of changes to base rates. The Parties shall have the right to contest the application, including whether the impact of the change or events is material to Atmos Energy and whether Atmos Energy's proposed remedy in the application is reasonable.

F. SYSTEM INTEGRITY PROGRAM TARIFF

23. The Parties agree that Atmos Energy shall be allowed to implement a surcharge mechanism, referred to as a SIP, to recover capital expenditures incurred in the accelerated replacement of obsolete pipe.

24. The SIP shall be implemented as a five-year pilot program beginning January 1, 2017, and ending with the filing of the final SIP surcharge on January 15, 2022.

25. The Parties agree Atmos Energy shall limit its claims for recovery of expenditures through the SIP over the five year plan to a total of \$75 million. The Parties recognize that Atmos Energy intends to submit a five-year plan that will likely have lower annual capital expenditures in the earlier years of the plan and larger annual capital expenditures in the latter years, and agree that

the Company shall have reasonable flexibility to vary the amount of capital expenditures claimed for recovery in each year under the plan to the extent that the total amount recovered over the five years does not exceed \$75 million. In turn, Atmos agrees to spread the total capital investment amount proportionately over each of the five years to the extent it is practicable. All annual capital expenditure amounts shall be reviewed by Staff and CURB and approved by the Commission.

26. Atmos Energy shall file its detailed five-year program setting forth its five-year goals, objectives and expected capital expenditures as outlined in the testimony filed in this case, as well as its first year plan under the program no later than July 1, 2016. The filing shall be subject to review by Staff and CURB. The Parties agree to recommend a procedural schedule to the Commission calling for an order regarding the program and the first year of the plan, by November 1, 2016.

27. By no later than July 15, 2017, Atmos Energy shall submit its filing for approval of the first SIP surcharge. The surcharge shall be based on the revenue requirement associated with the actual capital expenditure on approved SIP projects completed and placed in service prior to the filing. The revenue requirement will consist of the following:

- a. return on SIP capital expenditures using the last Commission approved pre-tax overall rate of return;
- b. return of SIP capital expenditures over time based upon Commission approved depreciation rates;
- c. recognition of accumulated depreciation expense and accumulated deferred income taxes as rate base offsets; and
- d. recognition of the appropriate impacts of retirement and cost of removal on the revenue requirement.

Ad valorem taxes associated with SIP capital expenditures would not be included in the calculation of the surcharge, but instead, would be recovered through the AVTS rider.

28. Staff shall have 45 days from the date of Atmos Energy's filing to submit its report and recommendation to the Commission. Provided that Atmos Energy's filing is made no later than July 15, 2017, the Parties request an order regarding the filing be issued so that approval of any surcharge can be effective for bills rendered on or after October 1, 2017, provided there are no contested issues that would require an evidentiary hearing. In the event an evidentiary hearing is required, then any approved surcharge shall be effective for bills rendered on or after the date of the Commission's order.

29. By no later than June 1, 2017, Atmos Energy shall file for Commission approval of its plan for year two under the five-year program. The plan shall also include a review of year one of the plan and any update to the overall five year plan. Staff and CURB shall have the right to review and provide comments to the Commission regarding the filing. The Parties request that the Commission issue its order regarding the second year of the plan no later than October 1, 2017.

30. By no later than January 15, 2018, Atmos Energy shall submit its filing for approval of a change to the SIP surcharge. The change in the surcharge shall be based on the revenue requirement associated with the actual capital expenditures on approved SIP projects completed and placed in service prior to the filing but not included in the previous SIP filing and any project costs, i.e., trailing charges, relating to SIP approved projects from the previous SIP filings which were not included as part of the previous SIP filing. This filing is subject to review by Staff and CURB and approval by the Commission. Staff shall have 45 days from the date of Atmos Energy's filing to submit its report and recommendation to the Commission. Provided that Atmos Energy's filing is made no later than January 15, 2018, the Parties request an order regarding the filing be issued so

that approval of any change in the surcharge shall be effective for bills rendered on or after April 1, 2018, provided there are no contested issues that would require an evidentiary hearing. In the event an evidentiary hearing is required, then any approved change in the surcharge shall be effective for bills rendered on or after the date of the Commission's order.

31. The same schedule as outlined above for year one shall apply to the subsequent years under the SIP program. The Parties agree to Staff's recommendation that any changes to the SIP surcharge would occur twice a year. The Parties agree that Atmos Energy shall be allowed to continue to make GSRS filings, which would be in addition to the SIP filings.

32. If during the five-year pilot program Atmos Energy files a general rate case application, the revenue being recovered under the SIP surcharge shall be included in base rates and the SIP surcharge reset to zero in the same way revenues recovered under the GSRS surcharge are treated in a general rate case filing.

33. The Parties agree that the SIP surcharge mechanism being submitted by the Parties as part of this Settlement shall be subject to any changes or additions that may be required so the SIP complies with any Commission decision issued in the 343 Docket. Any request by Atmos Energy to seek extension of the SIP surcharge beyond the five-year pilot program period shall be filed by Atmos Energy at least one year prior to the expiration of the pilot program.

G. CLASS COST OF SERVICE AND RATE DESIGN

34. The Parties agree that the rate increase shall be allocated among the respective classes of customers according to the amounts indicated for each class as shown on **Appendix B** hereto and that rates should be adjusted as shown on **Appendix C**.

35. The Parties recommend that the rates approved by the Commission in this general rate case go into effect on March 1, 2016.

36. Atmos Energy agrees to eliminate the minimum usage threshold for any non-residential customer to be eligible to receive transportation services.

37. Atmos Energy agrees to amend its tariffs to allow transportation customers the option of paying for required electronic flow measurement ("EFM") equipment at either the time of electing to take transportation services from Atmos Energy, or to pay for the cost of the EFM equipment through a monthly charge of \$30.00. Atmos Energy agrees not to charge customers for the cost of a new meter or upgrades to the existing meter, if such is required in order to install EFM equipment at the meter. Atmos Energy also agrees to track any migration of small commercial customers from sales to transportation service, and identify any impact of such migration on its design day requirements, in its annual Purchase Gas Adjustment filings.

38. Atmos Energy shall submit with its next general rate case filing a class cost of service study that breaks out or separates out the cost associated with providing service to customers in the Commercial/Public Authority class and between sales and transportation customers. Specifically, the cost of service study will include the following classes:

Sales Service:

- Residential
- Commercial Sales;
- Public Authority Sales;
- School Sales;
- Industrial Sales;
- Small Generator Service Sales;
- Interruptible Sales;
- Irrigation Sales;

Transportation Service:

- Commercial Transportation Firm;
- Public Authority Transportation Firm;
- School Transportation Firm
- Industrial Transportation Firm;
- Small Generator Service Transportation
- Interruptible Transportation
- Irrigation Transportation

39. The Parties agree that Atmos Energy shall file a set of compliance tariffs in this docket.

IV. MISCELLANEOUS PROVISIONS

A. THE COMMISSION'S RIGHTS

40. Nothing in this Settlement is intended to impinge or restrict, in any manner, the exercise by the Commission of any statutory right, including the right of access to information, and any statutory obligation, including the obligation to ensure that Atmos Energy is providing efficient and sufficient service at just and reasonable rates.

B. PARTIES' RIGHTS

41. The Parties shall have the right to present pre-filed testimony in support of this Settlement. Such testimony shall be filed formally in the docket and presented by witnesses at a hearing on this Settlement. Such testimony is being filed pursuant to the Commission's schedule in this docket. The Parties request the hearing on the Settlement be heard on the first day that was set for the evidentiary hearing in this case, which was February 2, 2016, at 9:00 a.m.

C. WAIVER OF CROSS-EXAMINATION

42. The Parties agree to waive cross-examination on all testimony filed prior to the filing of this Settlement. The Parties agree that all such prefiled testimony and exhibits may be incorporated into the record without objection.

D. NEGOTIATED SETTLEMENT

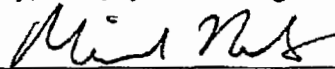
43. This Settlement represents a negotiated settlement that fully resolves the issues in this docket among the Parties. The Parties represent that the terms of this Settlement constitute a fair and reasonable resolution of the issues addressed herein. Except as specified herein, the Parties shall not be prejudiced, bound by, or in any way affected by the terms of this Settlement (a) in any

future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve this Settlement in the instant proceeding. If the Commission accepts this Settlement in its entirety and incorporates the same into a final order without material modification, the Parties shall be bound by its terms and the Commission's order incorporating its terms as to all issues addressed herein and in accordance with the terms hereof, and will not appeal the Commission's order on these issues.

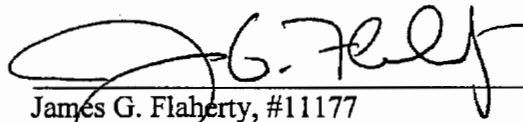
E. INTERDEPENDENT PROVISIONS

44. Except as mentioned in this paragraph, the provisions of this Settlement have resulted from negotiations among the Parties and are interdependent. Except as mentioned in this paragraph, in the event the Commission does not approve and adopt the terms of this Settlement in total, it shall be voidable and none of the Parties shall be bound, prejudiced, or in any way affected by any of the agreements or provisions hereof. Further, in such event, this Settlement shall be considered privileged and not admissible in evidence or made a part of the record in any proceeding. This provision shall not apply to (1) the Parties' agreement to recommend a March 1, 2016, effective date for the rate increase; or (2) the Parties' agreement relating to the SIP tariff should the Commission elect to defer to the 343 Docket a decision on any of the agreed upon provisions herein regarding Atmos Energy's SIP tariff.

IN WITNESS WHEREOF, the Parties have executed and approved this Unanimous Settlement Agreement effective as of the 20th day of January, 2016, by subscribing their signatures below.



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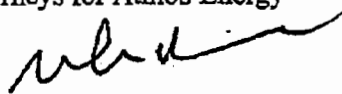
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APPENDIX A

Depreciation Rates

Account Number	Account Description	Mortality Characteristics					Depreciation Rates		
		ASL	lowa Curve	Gross Salvage	Cost of Removal	Net Salvage	Life Rate	COR Rate	Total Rate
GENERAL PLANT									
39009	Improvements to Leased Premises	10.0	SQ	0%	0%	0%	12.07%	0.00%	12.07%
39100	Office Furniture and Equipment	15.0	R1.5	0%	0%	0%	7.80%	0.00%	7.80%
39103	Office Machines	15.0	R1.5	0%	0%	0%	7.80%	0.00%	7.80%
39200	Transportation Equipment	5.0	SQ	0%	0%	0%	20.00%	0.00%	20.00%
39400	Tools, Shop and Garage Equipment	9.0	S5	0%	0%	0%	16.39%	0.00%	16.39%
39500	Laboratory Equipment	10.0	SQ	0%	0%	0%	10.00%	0.00%	10.00%
39700	Communication Equipment	12.0	S5	0%	0%	0%	10.67%	0.00%	10.67%
39800	Miscellaneous Equipment	8.0	L5	0%	0%	0%	16.74%	0.00%	16.74%
39901	Servers Hardware	7.0	SQ	0%	0%	0%	21.70%	0.00%	21.70%
39902	Servers Software	7.0	SQ	0%	0%	0%	14.29%	0.00%	14.29%
39903	Network Hardware	8.0	SQ	0%	0%	0%	19.19%	0.00%	19.19%
39905	Mainframe	5.0	SQ	0%	0%	0%	20.00%	0.00%	20.00%
39906	PC Hardware	5.0	SQ	0%	0%	0%	22.00%	0.00%	22.00%
39907	PC Software	6.0	SQ	0%	0%	0%	20.00%	0.00%	20.00%

Account Number	Account Description	Mortality Characteristics					Depreciation Rates		
		ASL	lowa Curve	Gross Salvage	Cost of Removal	Net Salvage	Life Rate	COR Rate	Total Rate
GENERAL PLANT									
39000	Structures and Improvements	40.0	R2	0.00%	0.00%	0.00%	2.33%	0.00%	2.33%
39005	G - Structures and Improvements	40.0	R2	0.00%	0.00%	0.00%	2.33%	0.00%	2.33%
39009	Improvements to Leased Premises	20.0	R4	0.00%	0.00%	0.00%	3.12%	0.00%	3.12%
39020	AEAM - Structures and Improvements	40.0	R2	0.00%	0.00%	0.00%	2.33%	0.00%	2.33%
39029	AEAM - Improvements to Leased Premises	20.0	R4	0.00%	0.00%	0.00%	3.12%	0.00%	3.12%
39100	Office Furniture and Equipment	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39101	Office Furniture and Equipment	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39102	Remittance Processing Equipment	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39103	Office Machines	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39104	G - Office Furniture and Equipment	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39120	AEAM - Office Furniture and Equipment	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39200	Transportation Equipment	10.0	L2	10.00%	0.00%	10.00%	6.47%	0.00%	6.47%
39400	Tools, Shop and Garage Equipment	11.0	S6	0.00%	0.00%	0.00%	8.29%	0.00%	8.29%
39420	AEAM - Tools, Shop, and Garage Equipment	11.0	S6	0.00%	0.00%	0.00%	8.29%	0.00%	8.29%
39500	Laboratory Equipment	10.0	R2	0.00%	0.00%	0.00%	8.28%	0.00%	8.28%
39700	Communication Equipment	15.0	R5	0.00%	0.00%	0.00%	5.69%	0.00%	5.69%
39720	AEAM - Communication Equipment	15.0	R5	0.00%	0.00%	0.00%	5.69%	0.00%	5.69%
39800	Miscellaneous Equipment	15.0	S3	0.00%	0.00%	0.00%	5.35%	0.00%	5.35%
39809	Insiter	15.0	S3	0.00%	0.00%	0.00%	5.35%	0.00%	5.35%
39820	AEAM - Miscellaneous Equipment	15.0	S3	0.00%	0.00%	0.00%	5.35%	0.00%	5.35%
39900	Other Tangible Property	7.0	R5	0.00%	0.00%	0.00%	12.70%	0.00%	12.70%
39901	Servers Hardware	10.0	SQ	0.00%	0.00%	0.00%	7.82%	0.00%	7.82%
39902	Servers Software	10.0	SQ	0.00%	0.00%	0.00%	7.18%	0.00%	7.18%
39903	Network Hardware	10.0	SQ	0.00%	0.00%	0.00%	6.99%	0.00%	6.99%
39906	PC Hardware	6.0	S3	0.00%	0.00%	0.00%	10.15%	0.00%	10.15%
39907	PC Software	10.0	R3	0.00%	0.00%	0.00%	6.44%	0.00%	6.44%
39908	Application Software	15.0	L1.5	0.00%	0.00%	0.00%	5.11%	0.00%	5.11%
39921	AEAM - Servers Hardware	10.0	SQ	0.00%	0.00%	0.00%	7.82%	0.00%	7.82%
39922	AEAM - Servers Software	10.0	SQ	0.00%	0.00%	0.00%	7.18%	0.00%	7.18%
39923	AEAM - Network Hardware	10.0	SQ	0.00%	0.00%	0.00%	6.99%	0.00%	6.99%
39926	AEAM - PC Hardware	6.0	S3	0.00%	0.00%	0.00%	10.15%	0.00%	10.15%
39928	AEAM - Application Software	15.0	L1.5	0.00%	0.00%	0.00%	5.11%	0.00%	5.11%

Account Number	Account Description	Mortality Characteristics					Depreciation Rates		
		ASL	lowa Curve	Gross Salvage	Cost of Removal	Net Salvage	Life Rate	COR Rate	Total Rate
GENERAL PLANT									
38900	Land	-	-	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
38910	CKV - Land	-	-	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
39000	Structures and Improvements	40.0	R2	0.00%	0.00%	0.00%	2.33%	0.00%	2.33%
39009	Improvements to Leased Premises	20.0	R4	0.00%	0.00%	0.00%	3.12%	0.00%	3.12%
39010	CKV - Structures and Improvements	40.0	R2	0.00%	0.00%	0.00%	2.33%	0.00%	2.33%
39100	Office Furniture and Equipment	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39101	Office Furniture and Equipment	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39102	Remittance Processing Equipment	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39103	Office Machines	22.0	L4	0.00%	0.00%	0.00%	3.69%	0.00%	3.69%
39700	Communication Equipment	15.0	R5	0.00%	0.00%	0.00%	5.69%	0.00%	5.69%
39710	CKV - Communication Equipment	15.0	R5	0.00%	0.00%	0.00%	5.69%	0.00%	5.69%
39800	Miscellaneous Equipment	15.0	S3	0.00%	0.00%	0.00%	5.35%	0.00%	5.35%
39900	Other Tangible Property	7.0	R5	0.00%	0.00%	0.00%	12.70%	0.00%	12.70%
39901	Servers Hardware	10.0	SQ	0.00%	0.00%	0.00%	7.82%	0.00%	7.82%
39902	Servers Software	10.0	SQ	0.00%	0.00%	0.00%	7.18%	0.00%	7.18%
39903	Network Hardware	10.0	SQ	0.00%	0.00%	0.00%	6.99%	0.00%	6.99%
39906	PC Hardware	6.0	S3	0.00%	0.00%	0.00%	10.15%	0.00%	10.15%
39907	PC Software	10.0	R3	0.00%	0.00%	0.00%	6.44%	0.00%	6.44%
39908	Application Software	15.0	L1.5	0.00%	0.00%	0.00%	5.11%	0.00%	5.11%
39910	CKV - Other Tangible Property	7.0	R5	0.00%	0.00%	0.00%	12.70%	0.00%	12.70%
39916	CKV - PC Hardware	6.0	S3	0.00%	0.00%	0.00%	10.15%	0.00%	10.15%
39917	CKV - PC Software	10.0	R3	0.00%	0.00%	0.00%	6.44%	0.00%	6.44%

APPENDIX B

Revenue Allocation

INCOME STATEMENT PROPOSED RATES	Total Jurisdiction	SALES SERVICE							TRANSPORTATION SERVICE		
		TOTAL RESIDENTIAL	TOTAL COMMERCIAL / P.A.	TOTAL SCHOOL	INDUSTRIAL			IRRIGATION	TRANSPORTATION FIRM	TRANSPORTATION INTERRUPTIBLE	TRANSPORTATION SCHOOLS FIRM
					SMALL GENERATOR						
					INDUSTRIAL	SERVICE	INTERRUPTIBLE				
OPERATING REVENUE - PROPOSED RATES	58,475,852	42,534,494	9,908,432	109,044	70,881	37,441	0	1,083,715	2,559,884	1,424,287	747,672
RATE SCHEDULE REVENUE INCREASE	\$2,218,903	\$ 1,613,998	\$ 404,353	\$ 4,138	\$ 4,110	\$ -	\$ -	\$ 138,259	\$ -	\$ 54,045	\$ -
TOTAL OPERATING REVENUE	60,694,755	44,148,492	10,312,785	113,182	74,991	37,441	0	1,221,974	2,559,884	1,478,332	747,672
PERCENT OF REVENUE INCREASE	100%	73%	18%	0%	0%	0%	0%	6%	0%	2%	0%

APPENDIX C

New Rates

Line #	Description	Settlement Facilities Charge	Proposed Commodity Rates
SALES:			
1	Residential Sales Service (910)	\$18.91	\$0.1545
2	Commercial Sales Service (915)	42.62	0.1549
3	Public Authority Sales Service (915)	42.62	0.1549
4	School Sales Service (920)	51.94	0.1674
5	Industrial Sales Service (930)	93.07	0.1570
6	Small Generator Sales Service (940)	41.00	0.1367
7	Large Industrial Sales Serv - Interruptible (955) <20,000	344.31	0.0873
8	Large Industrial Sales Serv - Interruptible (955) <20,000		
9	Irrigation Engine Sales Service (965)	75.27	0.1114
10	TRANSPORTATION:		
11			
12	Interruptible Transportation Serv - Industrial (IT900) <20,000	351.36	0.0892
13	Interruptible Transportation Serv - Industrial (IT900) >20,000		0.0780
14	Firm Transportation Serv Commercial (FT-900)	86.93	0.1466
15	School Transportation Service Post '95 (920)	88.85	0.1590
16	Firm Transportation Serv - Industrial (FT900) 1	86.93	0.1466

CERTIFICATE OF SERVICE

16-ATMG-079-RTS

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on MAR 17 2016.

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16-ATMG-079-RTS

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/S/ DeeAnn Shupe
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EMAILED

MAR 17 2016