BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of a General Investigation Regarding the Development of Distribution Infrastructure for Natural Gas in Rural Kansas	)))	Docket No. l 4-GIMG-514-GIG

INITIAL COMMENTS OF ATMOS ENERGY

Pursuant to the Kansas Corporation Commission's ("Commission") Order dated June 12, 2014, Atmos Energy submits its initial comments in the Commission's general investigation into issues relating to the development of distribution infrastructure for natural gas in rural Kansas.

I. INTRODUCTION

1. Atmos Energy is a natural gas public utility operating in the State of Kansas pursuant to certificates of convenience and necessity issued by the Commission.

2. Under those certificates of convenience and necessity, Atmos Energy provides retail natural gas service to approximately 129,000 customers in Kansas, including natural gas service to 106 communities in 32 counties.

3. Atmos Energy provides natural gas service to customers located in both urban and rural areas throughout Kansas, including customers located in the rural areas of Southwest Kansas in the counties of Grant, Hamilton, Morton, Stevens and Stanton.

4. The rates set by the Commission for all of Atmos Energy's Kansas customers are based upon a statewide cost of service and statewide rates. This means any decisions made by the Commission in this docket as it relates to a particular group of customers located in the rural areas served by Atmos Energy will most likely have an impact on all of Atmos Energy's Kansas customers whether those customers are located in urban or rural areas of Kansas. For example, a decision by the Commission to deregulate natural gas service provided to customers who use natural gas to fuel

their irrigation engines ("irrigation customers"), and to allow any natural gas provider to sell natural gas service to irrigation customers currently served by Atmos Energy, or located within Atmos Energy's certificated service territory, while perhaps providing a benefit to certain irrigation customers will likely have a negative impact on Atmos Energy's other Kansas customers for all of the reasons set forth below in these initial comments. While it is certainly important for the Commission to investigate the issues raised by the Staff in this docket, which focus on one particular group of customers, who are important to this State's economy like other groups of customers served by the utility, Atmos Energy and the Commission should not lose sight of the fact they have a duty to protect the public interest and all of the customers in Kansas served by Atmos Energy and just not one particular segment of those customers.

5. Notwithstanding some of the comments from irrigation customers concerning their belief the utilities are unresponsive to their requests for service, or the utilities' cost to extend their distribution service to those customers' irrigation engines are too high, Atmos Energy has worked with irrigation customers, within the perimeters of the Commission's sound regulatory principals that govern Atmos Energy's natural gas operations in Kansas, to respond to their requests and to extend service to them in a fair and cost effective manner.

6. For example, in 2002, a natural gas producer and gas gathering system owner in the Hugoton and Panoma Natural Gas Fields in Southwest Kansas, Pioneer Natural Resources ("Pioneer"), who for approximately 50 years had provided natural gas to residential and irrigation customers directly from Pioneer's wells and gas gathering system in Grant County, Kansas, notified those customers that because of the decline in wellhead and gathering system pressures due to the decline in production from the gas fields, it was no longer going to be able to provide natural gas to their homes and irrigation engines and they would have to find a new natural gas supplier. In that

case, Atmos Energy obtained approval from the Commission to partner with Pioneer to construct a new natural gas distribution system, which Atmos Energy operates today to provide service to those residential and irrigation customers who had lost their wellhead gas supply.[1]

7. Recently, Atmos Energy met several times with irrigation customers who were losing their wellhead and gas gathering system natural gas supply from LINN Energy, another Hugoton producer, to see if Atmos Energy could assist the irrigation customers either by extending Atmos Energy's existing distribution system to serve their irrigation engines, or by providing natural gas transportation service to those customers. Atmos Energy prepared plans to extend their distribution system and submitted it to the irrigation customers for their review. Those irrigation customers ultimately decided to form a non-profit utility because they desired to own their distribution system instead of taking service from Atmos Energy. However, Atmos Energy is currently providing natural gas transportation service to the non-profit utility. Although Atmos Energy did file an objection (for all of the reasons that are discussed in detail below) to the non-profit utility's request for a certificate to serve in an area where Atmos Energy was already certificated and where Atmos Energy was capable of providing natural gas service to those irrigation customers, Atmos Energy was always responsive to those irrigation customers' requests in that case. In addition, Atmos Energy's cost to extend its distribution system to serve those irrigation customers was competitive with the irrigation customers' alternative to construct their own distribution system.[2]

8. Atmos Energy's initial comments in this docket respond to each of the questions posed by the Commission and its Staff. However, as a general response, the existing regulatory framework relating to certificates of convenience and necessity and line extension policies, is based upon sound

[1] *See*, Docket No. 02-GRLG-623-CON.

[2] *See*, Docket No. 13-ATMG-741-COM and 14-4CEG-003-COC ("4 County Cases").

policy, financial and safety principals; is developed and explained by the Commission in many cases over the past 100 years; and is affirmed by the Kansas courts. The existing regulatory framework works well in protecting the public interest and customers as a whole, and those principals and policies supporting that framework should be ratified by the Commission in any order issued in this docket.

II. COMMISSION'S CURRENT POLICIES REGARDING CERTIFICATES OF CONVENIENCE AND NECESSITY

9. Before responding to the specific issues raised in this docket, it is important to understand those policy, financial and safety principals that support the Commission's existing and long standing policies of (1) not issuing certificates to more than one utility to serve a particular area except in rare situations and (2) not allowing the bypass of a natural gas local distribution company ("LDC") by other natural gas providers. The Staff's Memorandum recommending the Commission initiate this general investigation does a good job explaining why this Commission issues certificates of convenience and necessity to natural gas public utilities before they are allowed to provide natural gas service in a particular area and why, with few exceptions, this Commission has had a policy not to issue certificates to more than one utility to serve a particular area. This section of Atmos Energy's initial comments takes the explanation one step further to identify and discuss the policy, financial and safety principals that support the above-mentioned Commission policies and why those policies should continue to be supported and enforced by the Commission.

10. As indicated by the Commission in several bypass cases, it is counterproductive to allow certain customers the ability to bypass the LDC, especially in the case where the incumbent utility's facilities are being duplicated in order to serve those customers seeking to bypass the incumbent utility, because the cost of those idled facilities are shifted to the remaining captive customers and the utility's costs being paid by the revenues contributed by those customers who are

lost to bypass have to be spread to and paid for by the utility's remaining customers. The Commission has explained the rational supporting its policy against bypass in the following way:

> The underlying rationale against bypass is its counterproductive nature, wherein capital costs of idled LDC facilities are shifted to remaining captive customers (generally residential) unable to benefit from the bypass. Thus, the Commission has consistently refused competition between pipelines and LDCs.[3]

The Commission in citing many of its orders prohibiting bypass explained that its policy:

> ...is based on the economics of cost of service. The cost of service is spread among all the customers of the utility. When only certain customers are able to leave the system and obtain service from another utility, the cost of the idle facilities is then shifted to those captive customers that do not have the option to leave the system, resulting in increased rates to remaining customers.[4]

11. The Commission Staff has also explained the harm caused to the incumbent utility, its customers and the public interest, by allowing certain customers to bypass the certificated local distribution company this way:

> Two sets of distribution facilities serving the same customers is not efficient and constitutes a waste of resources. The cost of each company's facilities are included in their rate base. Ratepayers are paying for extra facilities. Additionally, given increasing returns to scale, it should be more efficient, i.e., cost less per unit, for a single company to supply all the distribution service in the area. As customers migrate from one supplier to the other, the cost of facilities in place to serve that customer become stranded.
>
> Efficient system planning can also be affected. Since neither company is guaranteed all sales in the territory, it becomes more difficult to plan efficient expansion of the distribution systems. Again, ratepayers pay the cost of this inefficiency.
>
> ... it cannot be suggested that two sets of natural gas distribution facilities serving the

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[1]In the Matter of the Complaint of Kansas Power & Light Company v. Getty Gas Gathering, Inc. and the City of Augusta, Kansas, Docket No. 153,664-U, dated July 12, 1988, pages 10, 13.

[4]*In the Complaint of United Cities Gas Company Against Brock Exploration Corp.*, Docket No. 193,478-U, Order issued May 29, 1996, paragraph 33.

same customers is beneficial to the public generally.[5]

12. The Staff in the 233 Docket recognized the Commission has in the recent past adhered closely to the issuance of single certificates in cases involving natural gas utilities. As indicated by the Staff in its Memorandum in this case, while single certification of electric utilities is mandated under the Retail Electric Suppliers Act, the Commission has the authority to issue dual natural gas certificates if it finds the issuance of dual authority to be in the public interest. However, as pointed out by Staff in the 233 Docket, existing dual natural gas territory is largely historic and, as in the case of Wichita, which until recently had areas certificated to two gas utilities, was the result of certificates issued in the distant past. In the 233 Docket, the Staff stated the Commission's policy in closely adhering to the issuance of single certificates in this way:

> ... **the Commission's policy has been to issue single natural gas certificates. This is because the issuance of dual certificates tends to lead to economic waste, environmental disadvantages and safety concerns inherent in duplication of facilities and to disputes between natural gas suppliers.**[6]

The Staff in that same 233 Docket indicated that although the Commission has issued dual certification for natural gas utilities in Southwest Kansas, it should be noted that there were exigent circumstances, (loss of gas well and gathering system gas supplies), which dictated to the Commission that the issuance of these certificates was in the public interest. The Staff went on to state:

> **The fact that in these special circumstances it has been necessary for the Commission to issue dual authority, should not be interpreted as a departure from the Commission's well established policy of issuing single natural gas certificates. While some of these rural areas may have dual certification, the reality is that few duplicate gas distribution facilities exist in these areas. In most cases, this dual certification has served to ensure that customers have the opportunity to connect to a natural gas utility, where otherwise there would be**

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[5] Commission Staff Memorandum dated October 1, 1998, page 6, http://estar.kcc.ks.gov/estar/ViewFile.aspx/199810009094440.pdf?Id=c53a181c-a6fe-49c6-93af-7505fc47e6be; Docket No. 99-KGSG-233-GIG ("233 Docket"); Staff Comments filed November 3, 1999 in 233 Docket, pages 2-3.

[6] *Id*. at pages 2-3 (emphasis added).

no such opportunity.[7]

13. With respect to the Commission's determination that allowing dual certification was not in the public interest because it caused economic waste, the Staff in the 233 Docket identified the economic benefits of having only one utility certificated to serve an area as follows:

> (1) Economic implications...
>
> (a) Less duplication of facilities. **The likelihood of installing duplicate facilities to serve potential new customers is reduced to zero**. This result stems from the effective creation... of exclusive service territories on a forward going basis.
>
> (b) Growth segment of the market served at lower cost. **By avoiding the placement of dual facilities to serve potential new customers, the unnecessary duplication of certain costs (mainly capital outlays) can be avoided**.
>
> (c) **Growth segment of the market served at lower cost. Similarly, to the extent the gas distribution function is characterized by economies of scale, the formation of exclusive service territories will enable the two local distribution companies (LDCs) to maximize the economies of scale associated with serving new customers in the Wichita area market. By capturing economies of scale to the greatest extent possible, the LDC is more able to exert downward pressure on its costs**.
>
> (d) **Reduced uncertainty. Furthermore, by the formation of exclusive service territories, the problem of planning future extensions of distribution networks is generally simplified. In part, it is simplified because there is less uncertainty about which LDC will serve a new customer (once located)**.
>
> (e) Growth segment of the market served at lower cost. **Service territory exclusivity should enable existing safety standards to be maintained at a lower cost... When duplication of pipelines is avoided, and when a safety problem appears at a specific location, there is little uncertainty about whose system needs attention. By eliminating that uncertainty, the problem can be corrected more quickly and at a lower cost**.[8]

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[7] *Id.*, Staff Comments filed November 3, 1999, page 3 (emphasis added).

[8] *Id.*, pgs. 2-8 (emphasis added).

14. With respect to the Commission's determination that allowing dual certification was not in the public interest because of safety issues, the Staff explained the safety issues as follows:

> B. Safety Issues
>
> (1) ...**the safety issue of greatest concern is the potential confusion associated with responding to an emergency in the dually certificated areas**.
>
> ***
>
> (2) Discussion... (c) Safety issues inherent to underground gas distribution systems that are closely situated. Parallel gas distribution facilities are placed underground which masks their location. Any time digging around buried gas lines occurs there is a risk of damage to the line and a potential safety hazard... **Conceptually then, the minimum risk to public safety would occur when only one line is buried since this would limit the amount of required excavation activity in the area. As two or more systems are installed in close proximity, excavation activity will naturally increase and the chances of damaging a gas line during excavation is increased**.[9]

15. The above comments made by the Commission in its past orders and the highlighted comments made by the Commission Staff in the 233 Docket accurately set forth the underlying support for the Commission's policies of (1) not issuing certificates to more than one utility to serve a particular area except in rare situations and (2) not allowing the bypass of an LDC by other natural gas providers. The positions articulated by the Commission and Staff form the basis for the Commission's policies in this area and are reasonable and should be confirmed in this docket.

16. In fact, Atmos Energy used and relied upon the above-stated Commission's policies and the above highlighted Staff comments made in the 233 Docket to support the utility's stance recently in the 4 County Cases. In the 4 County Cases, Atmos Energy explained to the Commission it had made a significant investment in constructing a distribution system to serve all customers in its certificated service areas in Stanton, Grant and Morton counties. 4 County, by applying for a

[9] *Id*., pgs. 4-6 (emphasis added).

certificate to provide natural gas service in Atmos Energy's service territory, was seeking to duplicate Atmos' facilities to serve customers that could easily be served by Atmos Energy from its existing distribution system. Atmos Energy contended that 4 County's application was contrary to the public interest and the Commission's long established policy prohibiting dual certification, bypass of an existing utility and duplication of facilities for all of the policy, economic and safety reasons identified by the Commission in past cases and the Staff in the 233 Docket. Accordingly, Atmos Energy requested the Commission deny 4 County's application for a certificate to provide natural gas service in Atmos Energy's service territory.

17. In the 4 County Cases there was a suggestion made by 4 County that the Rural Kansas Self Help Gas Act, K.S.A. 66-2010, *et seq*. ("Self Help Gas Act"), which is mentioned in the Staff's Memorandum in this case, permitted the Commission to make an exception to its long-standing policy prohibiting bypass and grant 4 County's request for a certificate of convenience and necessity to service customers located in Atmos Energy's service territory. Atmos Energy suspects a similar type of argument may be raised in this docket. However, as indicated by Atmos Energy in the 4 County Cases, the Self Help Gas Act recognizes the Commission's long standing policy prohibiting bypass. K.S.A. 66-2104, which is a part of the Self Help Gas Act, only pertains to the provision of natural gas service by the natural gas provider to "rural gas users" as that term is defined in K.S.A. 66-2101. K.S.A. 66-2104 provides that "in establishing and maintaining the **rural gas service** provided for by the Self-Help Gas Act, "the fact the service will be provided in an area certificated to an LDC will not in any way limit the rural gas users, the NPU, or their gas provider. (Emphasis provided) However, K.S.A. 66-2101 (j) defines "rural gas service" to mean "all activities necessary or convenient to procure, manage, transport and deliver gas to a **rural gas user.**" (Emphasis added). K.S.A. 66-2101 (k) defines "rural gas user" to mean "any person currently using natural gas from a

wellhead or gathering facility for agricultural purposes on property they own, lease or operate that is located outside city limits and not presently receiving natural gas service from an existing gas service provider." Therefore, K.S.A. 66-2104 only permits the Commission to make an exception to its long-standing policy prohibiting bypass in those situations where a natural gas provider seeks to provide service to customers who qualify as "rural gas users" under the Self-Help Gas Act, i.e., customers who are currently using natural gas from a wellhead or gathering facility located on the customers' property. K.S.A. 66-2104 does not permit the Commission to make an exception to its long-standing policy prohibiting bypass as it relates to a request by a natural gas provider to serve customers that do not qualify as "rural gas users" under the Self-Help Gas Act. Natural gas providers are not permitted to serve customers who are (1) not currently receiving natural gas from a wellhead or gas gathering system located on their property; (2) customers currently receiving natural gas service from and LDC like Atmos Energy; and (3) any customers who otherwise don't qualify as a rural gas user, i.e., customers who use diesel or electricity to run their irrigation engines; under the Commission's policy prohibiting the bypass of an LDC.

18. In the 4 County Cases, it was also suggested–and Atmos Energy suspects the same suggestion may be made in this docket–that the Commission could make an exception to its long-standing bypass policy because K.S.A. 55-1,107(a) under the Self Help Gas Act provides the Commission "the authority to issue more than one Certificate of Convenience and Necessity in areas such as this." However, as it pertains to an LDC like Atmos Energy, who provides natural gas service to customers from its distribution system in its certificated service territory, the provisions in K.S.A. 55-1,107(a) do not apply. K.S.A. 55-1,107(a) only pertains to those service territories where natural gas service is being provided off of a natural gas gathering system and not a natural gas distribution system. As indicated above, Atmos Energy provides natural gas service to customers in Grant,

Stanton, Hamilton Stevens and Morton Counties in Kansas from its natural gas distribution system, and therefore, K.S.A. 55-1,107(a) did not apply in the 4 County cases.

19. While a natural gas provider is allowed to serve an irrigation customer who is **currently and solely** receiving wellhead or gas gathering gas supplies from a gas well or gathering system located on the irrigation customers land under the Self Help Gas Act on an unregulated basis because those irrigation customers meet the definition of a "rural gas user," the Self Help Gas Act did not change the Commission's long standing policy that prohibits the bypass of an LDC by another natural gas provider, and therefore, any order issued in this case should recognize that limitation in the Self Help Gas Act.

III. RESPONSE TO ISSUES RAISED BY THE COMMISSION

A. DEVELOPING OR RELINQUISHING CERTIFICATED TERRITORY HELD BY EXISTING UTILITIES

20. Under the current process, which has been used by the Commission and its Staff and the natural gas utilities for many years, when a customer requests service from the natural gas utility who holds the certificate in the area where the customer is located, the natural gas utility provides the customer with the information and the cost of the natural gas utility to extend its existing natural gas distribution system to serve the customer. If the cost to connect the customer to the natural gas distribution system is not economical for the customer, and there is a nearby natural gas utility which is closer to the location of the customer and can economically connect the customer to its distribution system, then the two natural gas utilities work with the Staff to either exchange service territory or reach agreement that allows the natural gas utility to relinquish its certificated territory where the customer is located by filing an application with the Commission to cease service in that area and allow the natural gas utility which can serve the customer to extend its certificated territory to where the customer is located by filing an application with the Commission for an extension of its certificate.

This current process has worked well and should be continued by the Commission.

21. Also under the current process, where the customer is located in an area that is not certificated to any natural gas utility, the customer usually contacts the closest utility and if that utility can economically extend its distribution system to serve that customer, then the utility applies for a certificate from the Commission to serve the area where the customer is located. This current process has also worked well and should be continued by the Commission.

B. ALLOWING OPEN COMPETITION/MULTIPLE CERTIFICATES OF CONVENIENCE AND NECESSITY TO ENTITIES WISHING TO DISTRIBUTE NATURAL GAS IN RURAL AREAS

22. For the reasons stated earlier in these comments, the Commission should confirm its policies of (1) not issuing certificates to more than one utility to serve a particular area except in rare situations and (2) not allowing the bypass of an LDC by other natural gas providers. As previously indicated by the Commission and its Staff, allowing multiple natural gas suppliers to serve the same area, even in the rural areas of Kansas, and allowing competition between natural gas suppliers and LDCs results in economic waste and safety issues and is not in the public interest.

23. By maintaining single certificated service territories and continuing to prohibit bypass of LDCs by natural gas providers, economic waste is reduced because the single certificated service territories (1) eliminate duplication of operating and maintenance expenses and reduce the cost of service provided to customers; (2) eliminate duplication of capital investment; (3) prevent stranded capital cost; (4) assist the utility in strategic planning and growth; (5) assure transparent pricing based upon regulated cost of service and filed and approved tariffs; (6) reduce overall cost to the utility's captive customers; and (7) assure accountability of the natural gas provider.

24. Natural gas service to rural areas of Kansas produces its own set of safety issues, some similar to those faced by the utility in urban areas and some unique to the rural setting. In some rural areas in Southwest Kansas, it is not uncommon to have customers served by the natural gas public

utility, customers served directly from a gas well, customers served from a gas gathering company, customers served by a non-profit utility, and customers served off a master meter system owned by another irrigation farmer all in the same geographic area. This situation already creates multiple safety issues, which would only be compounded if the Commission were to deregulate natural gas service to irrigation customers in rural Kansas. Those safety issues include (1) customer confusion on who to contact in an emergency situation, which increases the response time to those emergency situations; (2) lack of compliance with pipeline safety regulations by unregulated natural gas suppliers and customers; (3) the unsafe practice of co-mingling and use of both wellhead natural gas and processed natural gas supplies by the same customer; (4) master meter distribution systems that are not properly maintained and do not comply with pipeline safety regulations; (5) lack of knowledge as to the location of underground natural gas lines and compliance with the one call system, which increases the risk of those lines being hit by third party excavators resulting in damages to property and injury and even death of persons; and (6) multiple underground natural gas lines located in the same right of way, which increases the risk of those lines being damaged by excavation resulting in emergency situations.

C. PROVIDING TRANSPARENCY AND OBJECTIVITY IN LINE EXTENSION POLICIES

25. While Atmos Energy is certainly open to considering additional options that may be available with respect to changes to its line extension tariff, which would allow it more flexibility to serve irrigation and other types of customers, the utility's existing line extension policy is based upon sound regulatory principals, which should be maintained and upheld by the Commission. As recognized by the Staff in its Memorandum in this docket, a utility is currently allowed to extend its distribution system to a new customer or group of new customers as long as the cost relating to the extension of its distribution system is not being subsidized by the utility's other existing customers.

This primary provision in the utility's line extension policy is reasonable and complies with the provisions of the public utility act that prohibit the utility from providing unduly preferential or discriminatory service to any one or any group of customers. The utility currently has the flexibility under its line extension policy to take into account the new customer's or customers' load (amount of natural gas the customer will purchase or transport) and to determine based upon that load what contribution (revenues) the customer or customers will provide to the utility's overall cost of service. To the extent the new customer or group of customers provide a significant contribution to the utility's overall cost of service that benefits the utility's other customers, the utility has the flexibility to discount, or even in some cases, not have to charge the new customer or group of customers for the cost of the line extension. The utility's other existing customers benefit from the revenues contributed by the new customer. The revenues received from the new customer reduce the amount of cost the existing customers have to pay for since the utility has more sales or transportation volumes to spread its cost over than what it had before it connected the new customer. Atmos Energy has a financial model that allows the utility to calculate the cost, if any, the new customer will have to pay to the utility to extend its distribution system to serve the new customer. This calculation takes into account the estimated revenues to be received from the new customer and assures the utility's other customers are not subsidizing the cost to connect the new customer.

26. With respect to this particular issue relating to the utility's line extension policy, obviously those natural gas providers who are not regulated by the Commission and who are not subject to the provisions of the public utility act, are not subject to the same requirements of the public utility, and if allowed by the Commission to compete with the LDC and bypass the LDC, then those natural gas providers will be operating under different rules than the utility and there is no level playing field between the LDC and the natural gas providers. The unregulated natural gas providers

will have the ability to "cherry-pick" Atmos Energy's high volume customers. This unfair competition will result in Atmos Energy's remaining captive customers to have to pay higher cost of service rates and is the reason why this Commission in the past has not allowed natural gas providers to compete with and bypass the LDC. The Commission should confirm that policy in this case.

D. THE APPROPRIATE MECHANISM FOR RECOVERY OF LINE EXTENSION COSTS THAT ENCOURAGES RURAL DEVELOPMENT WITHOUT CROSS SUBSIDIZATION OF CUSTOMER CLASSES

27. As mentioned above, the utility's current line extension policy is in line with the provisions of the public utility act and sound regulatory principals. Atmos Energy is certainly open to identifying other ways to cover the cost of extending its distribution system to under-served areas in rural Kansas. Other options might include the utility extending its distribution system to under-served areas in rural Kansas, including the cost to make the extension being included in the utility's rate base and then collecting a surcharge over the life of the system from those customers using the new distribution system in the under-served area and treat the amount collected under the surcharge as a contribution in aid of construction to reimburse Atmos Energy's other customers over a period of time for shouldering the cost of the extension. Atmos Energy has used this type of surcharge mechanism in the past.

E. THE USE OF CUSTOMER SPECIFIC CERTIFICATES OF CONVENIENCE AND NECESSITY AND WHAT IF ANY OBLIGATION TO SERVE EXISTS FOR THE CERTIFICATED UTILITY TO SERVE FUTURE CUSTOMERS

28. As mentioned above, one of the public interest benefits obtained by using single certificated service areas is it allows the incumbent public utility to plan for future expansion of its distribution system. The Staff referred to this benefit as "efficient system planning." As pointed out by Staff in the 233 Docket, if there is a service territory made up of customer specific certificates with multiple natural gas providers serving individual customers, where none of the natural gas providers

are guaranteed all sales in the territory, then "it becomes more difficult to plan efficient expansion of the distribution systems" and customers end up "paying the cost of this inefficiency." As also indicated by the Staff in the 233 Docket, "it cannot be suggested that two sets of natural gas distribution facilities serving the same customers is beneficial to the public generally."[10]

F. THE ABILITY TO ACCESS GAS SUPPLY FROM INTERSTATE PIPELINES

29. Natural gas public utilities like Atmos Energy, which operate in multiple states and which have dedicated natural gas transportation and supply service departments with experienced employees, are in the best position to take advantage of obtaining pipeline capacity and natural gas supplies to provide natural gas service to all customers located in rural Kansas. Atmos Energy uses its employees knowledge and experience and Atmos Energy's position of being one of the largest natural gas distribution companies in the country to obtain the best contracts regarding gas supply and other services required to obtain natural gas for customers. Atmos Energy's gas supply department prepares and implements a gas supply plan. That plan is submitted to the Commission and its Staff each year for their review. Atmos Energy's gas supply employees meet with the Staff every year to discuss how the gas supply plan was implemented during the previous year and what changes, if any, have been included in the gas supply plan for the upcoming year. In addition, natural gas public utilities such as Atmos Energy can take advantage of economies of scale to obtain pipeline capacity and reliable natural gas supplies at a reasonable price for customers located in rural Kansas. Atmos Energy uses a statewide PGA/ACA which allows it to spread the cost relating to pipeline capacity and natural gas supplies over a larger number of customers and to smooth out those costs so all of its Kansas customers pay a reasonable price for natural gas.

[10] *Id.*

IV. CONCLUSION

30. Atmos Energy is willing to work with customers, Staff, CURB, and the Commission, to develop a solution to providing natural gas service to under-served areas in rural Kansas. Atmos Energy is currently working with Staff and is seeking approval of its application to amend its PGA tariff to provide the utility an incentive to reduce demand charges paid to interstate pipelines and to use the savings generated by that effort to use to fund extension of its distribution system in under-served areas, including under-served rural areas. Atmos Energy is open to other ideas and programs that will assist in addressing the issue of under-served areas in rural Kansas. However, as mentioned above, the solution to this issue does not lie in deregulation of natural gas service to irrigation customers and the Commission discarding its long-established policy of not allowing competition between natural gas providers and LDCs and not allowing the bypass of LDCs.

31. To answer some of the Staff's more specific issues, open access, or deregulation, of natural gas service for irrigation customers or other groups of customers is not in the public interest for all of the reasons previously identified by the Commission and its Staff and summarized herein. The Rural Gas Self Help Act, as mentioned above, was passed by the Legislature, not to usurp the Commission's long standing policy of not allowing the bypass of LDCs, but to assist irrigation customers who were about to lose their wellhead gas supply in finding another natural gas provider. Because non-profit utilities (NPUs) must still obtain a certificate of convenience and necessity from the Commission before operating in Kansas, the Commission's bypass policy applies to those requests as argued by Atmos Energy in the recent 4 County Cases. Atmos Energy's line extension tariff sets forth the basis on which the utility is allowed to extend its distribution system to new customers located within its service territory and provides the basis as to how the utility is to respond to requests for service from any new customer. Finally, natural gas providers seeking to obtain a certificate in

an area already certificated to a natural gas public utility have the burden under Kansas law to demonstrate to the Commission that it would be in the public interest to grant that natural gas provider a certificate. Based upon the Commission's bypass policy and the reasons supporting that policy, the burden on that natural gas provider is high.

Respectfully submitted,

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VERIFICATION

STATE OF KANSAS, COUNTY OF FRANKLIN, ss:

James G. Flaherty, of lawful age, being first duly sworn on oath, states: That he is an attorney for Atmos Energy; that he has read the above and foregoing Initial Comments of Atmos Energy; knows the contents thereof; and that the statements contained therein are true.

James G. Flaherty

SUBSCRIBED AND SWORN to before me this 24th day of July, 2014.

NOTARY PUBLIC - State of Kansas
RONDA ROSSMAN
My Appt. Exp. 5/25/2018

Notary Public

Appointment/Commission Expires:

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was sent by electronic mail this 28th day of July, 2014, addressed to:

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