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Kansas Corporation Commission  
/S/ Susan K. Duffy

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

STATE CORPORATION COMMISSION

MAY 09 2005

In the Matter of the Application of Atmos Energy )  
for Approval of an Accounting Order to Permit )  
Atmos Energy to Recover Amounts Necessary to )  
Expend in Order to Establish and Maintain a Gas )  
Ceiling Price for all of the 2005-2006 Heating )  
Season and for a Portion of the Budgeted Winter )  
Volumes for the 2006-2007 Heating Season; and )  
for Approval to Continue with its Use of its "Gas )  
Hedge Program" Tariff. )

*Susan K. Duffy* Docket Room

Docket No. 05-ATMG-617-HED

**JOINT MOTION FOR AN ORDER  
APPROVING STIPULATION AND AGREEMENT**

COME NOW Atmos Energy ("Atmos"), the Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission," respectively) and Citizens' Utility Ratepayer Board ("CURB") (collectively, "Joint Movants"), and request that the Commission issue its order approving the Stipulation and Agreement entered into between Atmos, Staff and CURB, dated May 9, 2005 ("Stipulation and Agreement") with respect to the Application filed herein by Atmos. In support of their Joint Motion, Atmos, Staff and CURB state as follows:

1. On January 28, 2005, Atmos filed its Application with the Commission in this docket seeking approval of an accounting order to permit Atmos to recover such amounts as may be necessary to expend in order to establish and maintain a gas ceiling price for all of the 2005-2006 heating season and a portion of the budgeted winter volumes for the 2006-2007 heating season under the Gas Hedge Program and for approval to continue with its "Gas Hedge Program" tariff.
2. On January 31, 2005, CURB filed a Petition to Intervene in this matter and on February 2, 2005, the Commission entered its Order granting CURB's intervention.

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3. On February 2, 2005, the Commission issued a Suspension Order pending a full investigation of the Application.

4. Pursuant to negotiations among Atmos, Staff, and CURB, the parties executed a proposed Stipulation and Agreement dated May 9, 2005. The proposed Stipulation and Agreement both conditions and modifies the Gas Hedge Program Atmos sought in its Application. The primary modifications are: 1) an increase in the Program budget amount and 2) a change in Program status from year to year to permanent. A copy of the proposed Stipulation and Agreement is attached hereto as Attachment A.

5. Separately, Staff will file a Memorandum in support of the Commission approving the proposed Stipulation and Agreement. For the evidence presented in its Memorandum, it is Staff's opinion the Commission could find the proposed Stipulation and Agreement to be consistent with the public interest. Atmos, Staff and CURB, being in agreement with conditions regarding the implementation and design of the proposed Gas Hedge Program as contained in the terms and conditions of the Stipulation and Agreement, unanimously agree to support approval of the proposed Stipulation and Agreement.

6. Because the Gas Hedge Program described in the proposed Stipulation and Agreement is similar to the program which the Commission approved for Kansas Gas Service Company ("KGS") (Docket No. 05-KGSG-580-HED), the parties believe that the proposed Stipulation and Agreement could be approved without the need for a hearing.

WHEREFORE, Atmos, Staff, and CURB respectfully request the Commission issue its order

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granting Joint Movants' motion approving the proposed Stipulation and Agreement; approving the permanent Gas Hedge Program for Atmos as conditioned by the Stipulation and Agreement; and grant such other relief as the Commission may deem appropriate.



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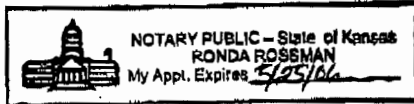
**VERIFICATION**


STATE OF KANSAS            )  
  )ss:  
FRANKLIN COUNTY            )

The undersigned, upon oath first duly sworn, states that he is the attorney for Atmos Energy; that he has read the above and foregoing Joint Motion for an Order Approving Stipulation and Agreement, that he is familiar with the contents thereof; and that the statements contained therein are true and correct.

  
\_\_\_\_\_  
James G. Flaherty

SUBSCRIBED AND SWORN to before me this 9<sup>th</sup> day of May, 2005.



  
\_\_\_\_\_  
Notary Public

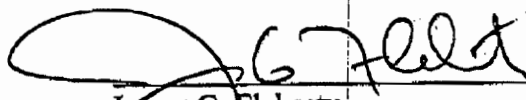
My Commission Expires:

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was mailed, postage prepaid, this 9<sup>th</sup> day of May, 2005, addressed to:

Otto A. Newton, Assistant General Counsel, Kansas Corporation Commission, 1500 S. W. Arrowhead Road, Topeka, Kansas 66604

David R. Springe, Consumer Counsel, Citizens' Utility Ratepayer Board, 1500 S. W. Arrowhead Road, Topeka, Kansas 66604

  
\_\_\_\_\_  
James G. Flaherty

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**STIPULATION AND AGREEMENT**

COME NOW Atmos Energy ("Atmos"), the Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission", respectively), and Citizens' Utility Ratepayer Board ("CURB") and stipulate and agree as follows:

1. Atmos is a jurisdictional public utility as defined by K.S.A. 66-104 and is providing gas utility service in Kansas pursuant to grants of authority from the Commission.
2. Atmos filed its Application in this matter on January 28, 2005.
3. On February 2, 2005, the Commission issued a Suspension Order.
4. Pursuant to negotiations among Atmos, Staff, and CURB, the parties executed this proposed Stipulation and Agreement dated May 9, 2005. This proposed Stipulation and Agreement both conditions and modifies the Gas Hedge Program Atmos sought in its Application. The primary modifications are: 1) an increase in the Program budget amount and 2) a change in Program status from year-to-year to permanent.
5. Separately, Staff will file a Memorandum in support of the Commission approving this proposed Stipulation and Agreement. For the evidence presented in its Memorandum, it is Staff's

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opinion the Commission could find the proposed Stipulation and Agreement to be consistent with the public interest. Atmos, Staff, and CURB, being in agreement with conditions regarding the implementation and design of the proposed Gas Hedge Program, as contained in the terms and conditions of this Stipulation and Agreement, unanimously agree to support its approval. The parties stipulate and agree that the permanent Gas Hedge Program and Accounting Order for Atmos shall be as follows:

A. The budget for Atmos' Gas Hedge Program shall not exceed \$2.5 million annually. Atmos may spend an amount up to the approved budget. All hedge program costs incurred by Atmos, such as transaction costs, possible interest on swap margin accounts and other direct costs of financial derivatives are to be covered by the approved budget. If necessary, the rate of interest on margin accounts will be the prime rate as published in the *Wall Street Journal*; and if necessary, an interest charge will be assessed on the initial margin amount, starting from when the account is first established through the expiration of the swap or futures contract, as the case may be. Any revenue possibly generated through the sale of financial derivatives shall be used to augment the allowed budget amount. Atmos may file a Motion to adjust the approved budget depending on market conditions.

B. All payoffs, positive or negative, associated with the settlement of financial derivatives acquired through the Hedge Program shall be passed through to Atmos' PGA customers in accordance with provisions of its PGA clause. The timing of the PGA pass-through shall be in the month following the payoff and will be distributed to all PGA

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class customers except irrigation. The PGA pass-through will show as a line item on bills in a fashion similar to the recovery of program costs discussed in Paragraph E except that it will be in the months of November through March.

C. Consistent with the findings from the Summer 2004 focus group sessions, Atmos' preferred hedge strategy is the placement of a price cap. Atmos will meet and consult with Staff and CURB prior to program implementation for the purpose of setting a planned program design, which includes specifying the following parameters:

1. quantity or volume of gas to hedge;
2. winter, and possibly summer months to be hedged;
3. price cap level;
4. hedge instruments to be used to set the cap; and
5. timing of hedge placement.

For each of the listed parameters, Atmos shall describe its decision making process and the analysis it used to support that process.

D. Atmos shall have full discretion over selection of the final Gas Hedge Program parameters. Atmos shall also meet with Staff and CURB throughout the implementation period, as needed, for the purpose of discussing significant changes from the planned hedge program.

E. Atmos shall recover the allowed program costs for each Gas Hedge Program year from its PGA customers (except irrigation customers) during the months of April through

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October through a volumetric Hedge Program charge. Atmos shall show the Hedge Program charge as a separate line item on the customer's bill during the months of April through October. Because hedge volumes are not used by Atmos during the summer irrigation months, Atmos' irrigation customers will neither pay for, nor receive benefits from, the hedge program. Those irrigation customers are completely excluded from said program.

F. Atmos shall maintain a monthly balance for amounts spent on hedge costs compared to amounts received from customers through the PGA. To the extent the net monthly balance shows that Atmos' expenditures on hedges exceed the amounts received from customers through the PGA, Atmos shall accrue interest on the excess amount during the following month at the prime rate as published in the *Wall Street Journal*. To the extent the monthly balance shows that Atmos' expenditures on hedges are less than the amounts received from customers through the PGA, Atmos shall accrue interest on the shortfall during the following month at the Commission's approved rate for customer deposits. Atmos shall recover or pay interest pursuant to the methodology above through a charge to or credit to the approved budget. The interest charges set forth in this paragraph F are separate from the interest on margin accounts described in paragraph A, which are treated separately.

G. Atmos shall submit monthly hedge reports to Staff and CURB throughout the program year. Reports during the implementation months shall detail actual implementation of the program while reports during the winter months will detail actual program performance. Monthly reports will be submitted electronically and during the first week of each month. The

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implementation reports will describe all Hedge Program activity during the prior calendar month while the performance reports will summarize Hedge Program performance for the instant calendar month. At the end of each program year, Atmos shall also submit a report on the cumulative, historical performance of its hedge program efforts.

H. Atmos shall retain all information and records necessary to verify derivative transactions performed on its behalf so that Staff or CURB may perform an audit of those transactions.

I. The parties agree that the Gas Hedge Program shall be made permanent. To the extent that Atmos, Staff or CURB believe that modifications to the previously approved program are necessary, such as a change in the budget, it shall file a Motion in this Docket requesting such changes as it deems necessary.

J. Atmos shall provide the Hedge Program design parameters to Staff and CURB sometime during September of each year. As described in Paragraph I, any modifications to submitting the design parameters in September shall require a Motion be filed in this Docket requesting such changes as deemed necessary.

6. Atmos must file its revised Gas Hedge Program tariff (SCHEDULE V: Purchased Gas Adjustment (PGA); SECTION 3 - PURCHASED GAS COST SURCHARGES; A. Gas Hedge Program) with the Commission for approval within thirty (30) days of the date of the Order approving this Stipulation and Agreement.

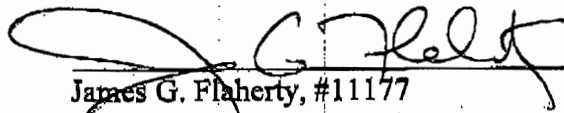
7. This proposed Stipulation and Agreement is entered into in good faith by the parties

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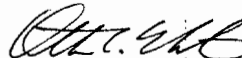
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and is intended to avoid the time and expense of any further proceedings in this matter. If the Commission does not approve all parts of the proposed Stipulation and Agreement, or approves the Stipulation and Agreement but provides for terms and conditions which have not been included herein, then, at the option of any signatory party, this Stipulation and Agreement shall become null and void and not binding upon the parties.

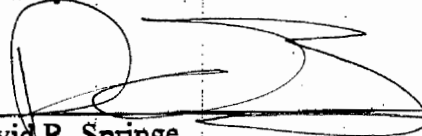
Dated this 9th day of May, 2005.



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CERTIFICATE OF SERVICE

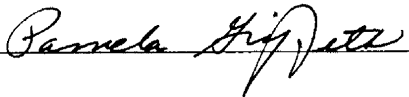
05-ATMG-617-HED

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Joint Motion For An Order Approving Stipulation and Agreement was placed in the United States mail, postage prepaid, or hand-delivered this 9th day of May, 2005, to the following:

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