

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Atmos Energy)
Corporation for Approval to Rename the)
Commodity Charge in its Tariffs to Delivery Charge) Docket No. 24-ATMG- 574 -TAR

APPLICATION

Atmos Energy Corporation (Atmos Energy) files this Application for approval to rename the Commodity Charge in its tariffs to Delivery Charge. In support of its Application, Atmos Energy states as follows:

1. Atmos Energy is a natural gas public utility operating in the State of Kansas per certificates of convenience and necessity issued by the State Corporation Commission of the State of Kansas (Commission). Atmos Energy's principal place of business within the State of Kansas is located at 25090 W. 110th Terr., Olathe, Kansas 66061.

2. Atmos Energy provides retail natural gas service to approximately 139,000 customers in Kansas, including natural gas service to 110 communities located in 32 counties.

3. Atmos Energy is requesting permission to rename the Commodity Charge in its tariffs to Delivery Charge to more accurately describe the services covered by that charge, and to qualify those charges on bills issued to Atmos Energy's customers for exemption from sales tax per K.S.A. 79-3602.

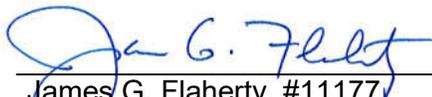
4. The Kansas Department of Revenue (KDR) issued a Private Letter Ruling dated June 22, 2023, to Kansas Gas Service, a Division of ONE Gas, Inc. (KGS) relating to an amendment to K.S.A. 79-3602 that took effect last year. The amendment excluded from the definition of "sales or selling price" delivery charges separately stated on the invoice, bill of sale or similar document given to the purchaser and exempted such charges from sales tax. KDR informed KGS that its volumetric delivery charge met the definition of "delivery charges" under K.S.A. 79-3602(i) because it was specifically stated on the customer bill as a "Delivery Charge." A copy of the June 22, 2023, KDR private letter ruling is attached hereto as **Exhibit A** and is incorporated herein by reference. The

KDR also issued Notice 23-02 on June 22, 2023 relating to the exemption of delivery charges from state and local sales taxes. A copy of Notice 23-03 is attached hereto as **Exhibit B** and is incorporated herein by reference.¹

5. The costs recovered through KGS's Delivery Charge are exactly the same type of costs recovered through Atmos Energy's Commodity Charge. They are the costs incurred by the gas utility to "deliver" the natural gas to the purchaser or customer. By renaming the charge in Atmos Energy's tariffs and the bills sent to Atmos Energy's customers to "Delivery Charge," that portion of the bill will qualify for exemption from sales tax and reduce the customer's total bill.

6. Attached hereto as **Exhibit C** are red-line changes to Atmos Energy's tariffs to rename "Commodity Charge" to "Delivery Charge." Attached hereto as **Exhibit D** are clean version of the tariffs with the name change of the charge.

WHEREFORE, for the reasons set forth herein, Atmos Energy requests approval from the Commission to change its tariffs to rename its "Commodity Charge" to "Delivery Charge," and for such other relief that may be necessary.



James G. Flaherty, #111777
ANDERSON & BYRD, LLP
216 S. Hickory ~ P.O. Box 17
Ottawa, Kansas 66067
(785) 242-1234, telephone
(785) 242-1279, facsimile
jflaherty@andersonbyrd.com

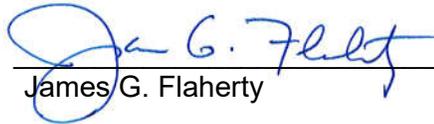
Shelly M. Bass, Associate General Counsel
Atmos Energy Corporation
5430 LBJ Freeway, 1800 Three Lincoln Centre
Dallas, Texas 75240
(972) 855-3756, telephone
(972) 855-3080, facsimile
shelly.bass@atmosenergy.com
Attorneys for Atmos Energy Corporation

¹On June 22, 2023, Atmos Energy's tax consultant, KPMG LLP, received an opinion from KDR that Atmos Energy's "Commodity Charge" was not exempt from sales tax because it was not indicated on the bill to the customer as a "delivery charge." A copy of the June 22, 2023 KDR opinion letter to KPMG is attached hereto as **Exhibit E**.

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 Corporation, and is duly authorized to make this affidavit; that he has read the foregoing Application, knows the contents thereof; and that the facts set forth therein are true and correct.


James G. Flaherty

SUBSCRIBED AND SWORN to before me this 14th day of February, 2024.





Notary Public

Appointment/Commission Expires:

Tax Policy
109 SW 9th Street
PO Box 3506
Topeka KS 66601-3506
Mark A. Burghart, Secretary



Phone: 785-368-8222
Fax: 785-296-1279
www.ksrevenue.gov
Laura Kelly, Governor

June 22, 2023

Robert Elliott Vincent
Managing Attorney
Kansas Gas Service
7421 West 129th Street
Overland Park, KS 66213

<robert.vincent@onegas.com>

Re: Kansas Sales Tax

Dear Mr. Vincent:

Your correspondence of May 5, 2023 has been referred to me for response. Thank you for your inquiry.

By your letter you have requested our opinion regarding Kansas sales tax. Specifically, your letter states:

Kansas Gas Service, a Division of ONE Gas, Inc. (“Kansas Gas Service”), pursuant to K.S.A. 79-3646 and K.A.R. 92-19-59, respectfully requests a Private Letter Ruling interpreting K.S.A. 79-3602. Kansas Gas Service is a natural gas public utility which delivers natural gas and bills customers using separate charges. Recent amendments to K.S.A. 79-3602 indicate Kansas Gas Service should not collect sales tax on some of these separately stated charges. Kansas Gas Service respectfully requests guidance on two issues:

1. Whether Kansas Gas Service must collect sales tax on its separately stated “Delivery Charge.”
2. Whether Kansas Gas Service must collect sales tax on separately stated charges/adjustments used in the delivery of natural gas, such as the “Service Charge” or “Gas System Reliability Surcharge.”

I. STATUTORY AMENDMENT

During the 2022 legislative session, the Kansas Legislature passed, and the Governor signed H.B. 2126. HB 2136 amended K.S.A. 79-3602 to, effective July 1, 2023, exclude from the definition of “sales or selling price” delivery charges separately stated on the invoice, bill of sale or similar document given to the purchaser. See K.S.A. 79-3602(11)(1)(D)(ii), (11)(3)(F). K.S.A. 79-3602(i) defines “delivery charges” as:

EXHIBIT A

Delivery charges means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing. Delivery charges shall not include charges for delivery of direct mail if the charges are separately stated on an invoice of similar billing document given to the purchaser. K.S.A. 79-3602(i) (internal quotation marks omitted).

II. KANSAS GAS SERVICE

A. Background

K.S.A. 66-1,200(a) defines a natural gas public utility as “any public utility defined in K.S.A. 66-104, and amendments thereto, which supplies natural gas.” K.S.A. 66-104 defines public utility, in relevant part, as “all companies for the production, transmission, **delivery** or furnishing of heat, light, water or power. K.S.A. 66-104(a)(emphasis added). Kansas Gas Service is a natural gas public utility operating in Kansas pursuant to certificates of convenience and necessity issued by the Kansas Corporation Commission.

As a regulated utility, Kansas Gas Service has a series of rates, terms, and conditions which govern its conduct. These items, commonly referred to as “tariffs”, must be approved by the Kansas Corporation Commission. See K.S.A. 66-1,203. “Tariffs are those terms and conditions which govern the relationship between a utility and its customers.” *Danisco Ingredients USA, Inc. v. Kansas City Power & Light Co.*, 267 Kan. 760, 765, 986 P.2d 277, 381 (1999). Tariffs “duly filed with the [Kansas Corporation Commission] generally bind both the utility and the customer.” *Id.* The rates Kansas Gas Service charges its customers are in tariffs the Kansas Corporation Commission must approve.

B. Tariff Interpretation

Lawfully approved tariffs have the force and effect of law. See *Burdick v. Sw. Bell Tel. Co.*, 9 Kan. App. 2d 182, 186, 675 P.2d 922, 925 (1984). A “legally established tariff should be construed in the same manner as a statute, “and tariffs “are to be construed as a whole, including footnotes, from the ordinary and popular meaning of the words used.” *Grindsted Prod., Inc. v. Kansas Corp. Comm’n*, 262 Kan. 294, 310, 937 P.2d 1, 11 (1997). “A tariff approved by a regulatory agency conclusively establishes the legal and contractual relationship between the regulated entity and its customers.” In re Dir. of Prop. Valuation, 284 Kan. 592, 604, 161 P.3d 755, 764 (2007) (*citing Grindsted*, 262 Kan, at 309 – 310).

C. Kansas Gas Service's Charges

Kansas Gas Service's bills contain several unique, separately stated charges. These include:

1. A Service Charge, which is a fixed charge and does not vary depending on consumption.
2. A Delivery Charge, which is a volumetric charge (i.e., the total does vary with consumption).
3. A Gas System Reliability Surcharge, which is a fixed charge recovering the cost of certain projects.
4. A Weather Normalization surcharge, which adjusts charges for deviations from normal weather.
5. A Cost of Gas surcharge, which is a direct pass-through for fuel-related costs.
6. Franchise Fees and Taxes

The costs recovered through Kansas Gas Service's Service Charge and Delivery Charge are the same. The costs allocated to Kansas Gas Service's fixed and volumetric rates are a function of rate design. Rate design is a policy decision, legislative in nature. *See Midwest Gas Users Ass'n v. State Corp. Comm'n*, 5 Kan. App. 2d 653, 660, 623 P.2d 924, 930 (1981). The decision to allocate certain costs to fixed and volumetric charges is a matter of rate design, which the Kansas Corporation Commission has broad discretion in making. *Farmland Indus., Inc. v. Kansas Corp. Comm'n*, 29 Kan. App. 2d 1031, 1047, 37 P.3d 640, 651 (2001). Collecting a portion of Kansas Gas Service's revenue requirement through a fixed Service Charge, and the other through a volumetric Delivery Charge, does not alter the charges' respective underlying costs.

The Gas System Reliability Surcharge is a statutorily authorized surcharge which allows Kansas Gas Service to more quickly recover costs associated with certain "natural gas utility projects". See K.S.A. 66-2201 *et. seq.* When Kansas Gas Service undergoes a base rate case at the Kansas Corporation Commission, the costs recovered through the Gas System Reliability Surcharge are rolled into the company's other base rates. Afterwards, Kansas Gas Service recovers these costs through its Service and Delivery Charges.

All three of these surcharges recover costs associated with Kansas Gas Service's investment in plant used and required to be used to deliver natural gas to customers. In addition, the Delivery and Service Charges recover general operations and maintenance expense used in operating a natural gas distribution system.

III. INTERPRETATION REQUEST

K.S.A. 79-3602 defines “delivery charges” in relevant part, as “charges made by the seller of personal property or services for preparation and delivery to a location designated the purchaser of personal property or services.” *See* K.S.A. 79-3602(i). Kansas Gas Service charges its customers to prepare for (i.e., procure) and deliver (i.e., transport through a distribution network) natural gas to a location designated by the purchaser (i.e., the customer’s premise). The costs to perform this service are recovered through Kansas Gas Service’s separately stated Service Charge, Delivery Charge, and Gas System Reliability Surcharge.

Kansas Department of Revenue Private Letter Ruling 1999-166 (issued July 28, 1999) stated, in relevant part, “Assuming the utility services are unbundled, tax should be computed individually on each component.” Recognizing lawfully approved tariffs have the force and effect of law and are construed in the same manner as statutes (i.e., using the ordinary and popular meaning of words), it appears Kansas Gas Service’s separately stated “Delivery Charge” and its adjustments (e.g., weather normalization) fall within H.B. 2136. Kansas Gas Service is a statutorily defined public utility that delivers and supplies natural gas to its customers. Kansas Gas Service bills customers using a separately stated Delivery Charge, and the Kansas Legislature has excluded separately stated delivery charges from the definition of “sales or selling price.”

If Kansas Gas Service’s “Delivery Charge” is excluded from the definition of “sales or selling price,” the “Service Charge” should be excluded as well. While the names of these charges differ, their underlying costs are the same. The only difference between these two charges is how they are calculated (i.e., either a fixed amount or a volumetric amount) which is a function of rate design.

Kansas Gas Service’s Gas System Reliability Surcharge allows for the accelerated recovery of costs associated with certain projects. During base rate proceedings, these costs are rolled into Kansas Gas Service’s base rates. All else being equal, Kansas Gas Service’s base rates increase and the Gas System Reliability Surcharge is reset to \$0.00. If the costs associated with the Gas System Reliability Surcharge are ultimately recovered through Delivery or Service Charges, Kansas Gas Service’s Gas System Reliability Surcharge should be excluded from the definition of “sales or selling price.”

Kansas Gas Service respectfully requests that Secretary interpret K.S.A. 79-3602 in light of these facts and advise:

1. Whether Kansas Gas Service must collect sales tax on its separately stated “Delivery Charge.”
2. Whether Kansas Gas Service must collect sales tax on separately stated charges/adjustments used in the delivery of natural gas, such as the “Service Charge” or “Gas System Reliability Surcharge.”

If you have any questions or require additional facts, please do not hesitate to contact me.

* * * * *

Before addressing your specific questions and concerns, I want to note the recent statutory changes at issue here provide delivery charges may be excluded from the sales tax base. For Kansas sales tax purposes, exemptions from sales tax are specifically provided by K.S.A. 79-3606. The provisions of K.S.A. 79-3602(11) define the term “sales or selling price” which addresses “the measure subject to sales tax”, otherwise referred to as the sales tax base. Under the change going into effect July 1st, delivery fees that are separately stated on the invoice, bill of sale or similar document given to the purchaser are not subject to sales tax because they are not included in the selling price of the good or service being sold. They are not “exempt” as that term of art is used for sales tax purposes.

In addition, please be aware of our newly issued Notice 23-02 Delivery Fees Charged by a Retailer, a copy of which is available through our website at: www.ksrevenue.gov. In that Notice we state, in part:

The term “delivery charges” is defined in K.S.A. 79-3602(i). The subsection provides as follows:

(i) “Delivery charges” means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing. Delivery charges shall not include charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

Like exemptions from the sales tax, exclusions from the sales tax base are narrowly construed. Kansas courts have clearly stated taxation is the rule and exemption the exception. Accordingly, to qualify for the exclusion from the sales tax base, delivery charges that are separately stated on the invoice, bill of sale, or similar document provided to a purchaser must be clearly denominated as charges for: (1) delivery; (2) transmission; or (3) transportation. Charges that are not clearly so denominated on the invoice, bill of sale, or similar document provided to a purchaser will be included in the tax base as part of the gross receipts from the sale.

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The decision of how to prepare and issue a billing statement to a customer is up to the retailer. K.S.A. 79-3602(11)(1)(D)(ii) does not mandate that delivery charges be

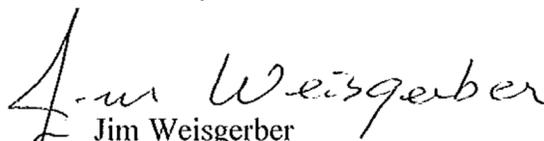
separately stated on the invoice, bill of sale or similar document given to the purchaser. If delivery charges are not separately stated they will be included in the sales or selling price, and so will be subject to sales tax, but retailers that do not break out delivery fees will not be obligated to do so and, instead, for sales tax purposes will be able to maintain current business practices for the foreseeable future. The Department of Revenue declines to opine or give advice regarding billing issues that are not directly related to sales tax.

Turning to your specific questions, the answer to your first question is “no”. Kansas Gas Service need not collect sales tax on its separately stated “Delivery Charge.”

In response to your second question, Kansas Gas Service need not collect sales tax on separately stated delivery charges that are clearly denominated as charges for: (1) delivery; (2) transmission; or (3) transportation. Charges that are not clearly so denominated on the invoice, bill of sale, or similar document provided to a purchaser will be included in the tax base as part of the gross receipts from the sale. If your company unbundles and separates the detailed components of a delivery charge on a sales customer’s bill the delivery component could be excluded from the sales tax base, if the delivery charges are separately stated and denominated as explained in Notice 23-02.

I trust this information is of assistance. If I can be of further service, please feel free to contact me.

Sincerely,


Jim Weisgerber
Attorney
Tax Specialist

NOTE: This private letter ruling / opinion letter is based solely on the facts provided in your request for advice. If material facts or information were not disclosed this letter is null and void. This letter will be revoked without further action by the Department if the statutes, administrative regulations, published revenue rulings, or court decisions that materially affect this opinion are changed.

NOTICE 23-02

DELIVERY FEES CHARGED BY A RETAILER

(JUNE 22, 2023)

During the 2022 Legislative Session House Bill 2136 was passed and signed into law. Section 17 of the Bill amended K.S.A. 79-3602 to change the definition of “sales or selling price” for purposes of the Kansas sales tax. Specifically, K.S.A. 79-3602(II) was amended to provide, in part:

(II) (1) “Sales or selling price” applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller’s cost of the property sold;

(B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller and any other expense of the seller;

(C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(D) (i) prior to July 1, 2023, delivery charges; and
(ii) on and after July 1, 2023, delivery charges that are not separately stated on the invoice, bill of sale or similar document given to the purchaser; and

(E) installation charges.

Prior to the amendment, delivery charges were included in the sales or selling price charged to a customer as part of the gross receipts from the sale of tangible personal property or enumerated services, and so were subject to Kansas sales tax. In accordance with the amendment, on and after July 1, 2023, delivery charges that are separately stated on the invoice, bill of sale, or similar document provided to a purchaser are not included in the sales or selling price charged to the customer, are not part of the gross receipts from the sale of tangible personal property or enumerated services, and so are not subject to Kansas sales tax.

The term “delivery charges” is defined in K.S.A. 79-3602(i). The subsection provides as follows:

(i) “Delivery charges” means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing. Delivery charges shall not include charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

Like exemptions from the sales tax, exclusions from the sales tax base are narrowly construed. Kansas courts have clearly stated taxation is the rule and exemption the exception. Accordingly, to qualify for the exclusion from the sales tax base, delivery charges that are separately stated on the invoice, bill of sale, or similar document provided to a purchaser must be clearly denominated as charges for: (1) delivery; (2) transmission; or (3) transportation. Charges that are not clearly so denominated on the invoice, bill of sale, or similar document provided to a purchaser will be included in the tax base as part of the gross receipts from the sale.

It is important to note any separately stated charges must be representative of a true or reasonable cost of delivery based upon the underlying products or services sold and provided by either the retailer or service provider directly, or by a third party or agent (ex. a package delivery company) used by the retailer or service provider. Records regarding delivery costs and charges must be retained by the retailer and, pursuant to Kansas law, must be available for, and are subject to, inspection by the Director of Taxation or authorized representative at all times during normal business hours. Depending upon the amount of the delivery charges relative to the sales price of the item sold, a detailed, itemized list of all the charges may be required for each delivery. Delivery charge does not include the cost of transportation to the seller (typically called “freight-in”), fuel surcharges, or charge-back for delivery charge on returned goods.

In some instances, there is a clear line of demarcation between the cost of the product being sold and the delivery charges associated with the sale. For example, the sale of a large item by a “big box” store which can be transported by the purchaser at the time of sale or, for an additional fee, be delivered to the purchaser by the store later. In other cases, such as when services are being sold, the line between the cost of the product and the delivery charges associated with the sale may be more difficult to determine. In either case, if the delivery charges are not to be included in the sales or selling price, the delivery charges must be clearly and separately stated on the invoice, bill of sale, or similar document provided to the purchaser.

The decision of how to prepare and issue a billing statement to a customer is up to the retailer. K.S.A. 79-3602(II)(1)(D)(ii) does not mandate that delivery charges be separately stated on the invoice, bill of sale or similar document given to the purchaser. If delivery charges are not separately stated they will be included in the sales or selling price, and so will be subject to sales tax, but retailers that do not break out delivery fees will not be obligated to do so and, instead, for sales tax purposes will be able to maintain current business practices for the foreseeable future. The Department of Revenue declines to opine or give advice regarding billing issues that are not directly related to sales tax.

The change in treatment of delivery charges will affect both the state sales tax and local sales taxes imposed by cities, counties, and political subdivisions (along with special jurisdictions within the cities, counties, and political subdivisions, community improvement districts, transportation development districts, and STAR bond project districts). After July 1, 2023, these delivery charges, if separately stated on the invoice, bill of sale, or similar document provided to a purchaser, will not be included in the sales or selling price and, therefore, will not be subject to state and local sales tax.

TAXPAYER ASSISTANCE

Additional copies of this notice, forms or publications are available from our web site, www.ksrevenue.gov. If you have questions about this Notice, please contact:

Taxpayer Assistance Center
Kansas Department of Revenue
Scott Office Building, 1st Floor
120 SE 10th Ave
P. O. Box 3506
Topeka, KS 66601-3506
Phone: 785-368-8222
Hearing Impaired TTY: 785-296-6461
Fax: 785-291-3614

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION

(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA

(Territory to which Schedule is applicable)

No Supplement or separate understanding
shall modify the tariff as shown hereon.

Sheet 5 of 21 Sheets

SECTION 2 - FIRM SALES SERVICE**A. Residential Sales Service (Rate Schedule 910)**1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to residential customers at a single location.

2. MONTHLY BILL

- a. Facilities Charge: \$ 19.75 per month
- b. **Commodity Delivery** Charge: \$0.17110 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA and WNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Construction of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

5. GAS LIGHTS

For all gas light services, the charge for such services shall be based on actual usage through a metered source at this tariff rate. For all unmetered gas light service, the Company may estimate and determine the appropriate consumption of the light and charge the applicable rate under this rate schedule.

Issued: May 9 2023
(Month) (Day) (Year)

Effective: May 9 2023
(Month) (Day) (Year)

By: /s/ Kathleen R. Ocanas Vice President, Rates & Regulatory Affairs
(Signature of Officer) (Title)

23-ATMG-359-RTS
Approved *KALF*

Kansas Corporation Commission
May 9, 2023
/s/ Lynn Retz

EXHIBIT C

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

B. Commercial/Public Authority (General) Sales Service (Rate Schedule 915)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to commercial and public authority customers at a single location.

2. MONTHLY BILL

- a. Facilities Charge: \$50.00 per month
- b. ~~Commodity~~ Delivery Charge: \$0.15382 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA and WNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Construction of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas

5. GAS LIGHTS

For all gas light services, the charge for such services shall be based on actual usage through a metered source at this tariff rate. For all unmetered gas light service, the Company may estimate and determine the appropriate consumption of the light and charge the applicable rate under this rate schedule.

Issued: May 9 2023
(Month) (Day) (Year)

Effective: May 9 2023
(Month) (Day) (Year)

By: /s/ Kathleen R. Ocanas Vice President, Rates & Regulatory Affairs
(Signature of Officer) (Title)

23-ATMG-359-RTS
Approved *KALF*
Kansas Corporation Commission
May 9, 2023
/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

C. School Sales Service (Rate Schedule 920)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to state, county, city and private educational institutions or universities constructed before January 1, 1995 at a single location.

2. MONTHLY BILL

- a. Facilities Charge: \$62.50 per month
- b. ~~Commodity~~ Delivery Charge: \$0.16830 per 100 cubic feet (Ccf plus applicable adjustments and charges provided in the Company's PGA and WNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Construction of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

Issued:	<u>May</u>	<u>9</u>	<u>2023</u>	
	(Month)	(Day)	(Year)	
Effective:	<u>May</u>	<u>9</u>	<u>2023</u>	
	(Month)	(Day)	(Year)	
By:	<u>/s/ Kathleen R. Ocanas Vice President, Rates & Regulatory Affairs</u>			
	(Signature of Officer)			(Title)

23-ATMG-359-RTS
Approved *KALF*
Kansas Corporation Commission
May 9, 2023
/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

D. Industrial Sales Service (Rate Schedule 930)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to industrial customers at a single location.

2. MONTHLY BILL

- a. Facilities Charge: \$104.00 per month
- b. ~~Commodity~~ Delivery Charge: \$0.16200 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA and WNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Construction of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

Issued: _____
(Month) (Day) (Year)

Effective: May 9 2023
(Month) (Day) (Year)

By: /s/ Kathleen R. Ocanas Vice President, Rates & Regulatory Affairs
(Signature of Officer) (Title)

23-ATMG-359-RTS
Approved *KALF*
Kansas Corporation Commission
May 9, 2023
/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

E. Small Generator Sales Service (Rate Schedule 940)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to commercial customers, at a single location, for separately metered electric generators of less than 20 kilowatts of capacity.

2. MONTHLY BILL

- a. Facilities Charge: \$50.00 per month
- b. **Commodity Delivery** Charge: \$0.16000 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA Schedules.

The minimum bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Construction of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

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Kansas Corporation Commission
May 9, 2023
/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

F. Irrigation Engine Sales Service (Rate Schedule 965)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to engine irrigation customers at a single location.

2. MONTHLY BILL

- a. Facilities Charge: \$100.00 per month
- b. ~~Commodity~~ Delivery Charge: \$0.11735 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA and WNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

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23-ATMG-359-RTS
Approved *KALF*
Kansas Corporation Commission
May 9, 2023
/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
 (Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
 (Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

1. RATE

- a. Facilities Charge \$330.00
- b. ~~Commodity Delivery~~ Charge \$0.09660/ ccf first 20,000
 \$0.08259/ ccf greater than 20,000

2. DEMAND RATE

- a. Demand Rate The sum of the reservation cost for which the Company has contracted with Southern Star Central Gas Pipeline, Inc., per Ccf of Contract Demand.
- b. Daily Demand Rate The Demand Rate divided by 30.4 days, per Ccf per day for all gas in excess of the Contract Demand level.

3. MONTHLY BILL

The minimum monthly bill applicable at single address or location shall be the sum of the Facility Charge and the Demand Charge, Daily Demand Charge and the ~~Commodity Delivery~~ Charge as follows:

- a. The Demand Charge shall be the product of the demand level nominated by the Customer and the Demand Rate.
- b. The Daily Demand Charge shall be the product of the unauthorized volumes taken by Customer when curtailed by Company under this rate schedule on each day during the billing period in excess of the demand level nominated by the Customer and the Daily Demand Rate.
- c. The ~~Commodity Delivery~~ Charge shall be the product of all volumes delivered under this rate during the billing period and the ~~Commodity Delivery~~ Rate.

Issued: _____
 (Month) (Day) (Year)

Effective: May 9 2023
 (Month) (Day) (Year)

By: /s/ Kathleen R. Ocanas Vice President, Rates & Regulatory Affairs
 (Signature of Officer) (Title)

23-ATMG-359-RTS
 Approved *KALF*
 Kansas Corporation Commission
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 /s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
 (Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
 (Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

SECTION 4-TRANSPORTATION SERVICE

A. General Service Firm Transportation Service (Rate Schedule FT900)

1. AVAILABILITY

See Schedule I, Section 12 A - Transportation Services

2. MONTHLY BILL

Companion Sales Schedule	Facility Charge	Commodity <u>Delivery</u> Charge
915	\$150.00	\$0.15305/ ccf + take-or-pay costs set for on Sheet 1 of 1
920	\$109.00	\$0.16100/ ccf + take-or-pay costs set for on Sheet 1 of 1
930	\$150.00	\$0.15305/ ccf + take-or-pay costs set for on Sheet 1 of 1
965	\$143.00	\$0.10420/ ccf + take-or-pay costs set for on Sheet 1 of 1

The minimum monthly bill shall be the facility charge, the demand charge, if any, and the EFM facilities charges, if applicable.

3. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the applicable companion sales rate schedule conditions and to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Constructions of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

Issued:	<u>September</u>	<u>9</u>	<u>2022</u>	
	(Month)	(Day)	(Year)	
Effective:	<u>May</u>	<u>9</u>	<u>2023</u>	
	(Month)	(Day)	(Year)	
By:	<u>/s/ Jared Geiger</u>			
	(Signature of Officer)			
	<u>Vice President, Rates & Regulatory Affairs</u>			
	(Title)			

23-ATMG-359-RTS
 Approved KALF
 Kansas Corporation Commission
 May 9, 2023
 /s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
 (Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
 (Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

B. Interruptible Transportation Service (Rate Schedule IT900)

1. AVAILABILITY

See Schedule I, Section 12 A- Transportation Services

2. MONTHLY BILL

Companion Sales Schedule 955	Facility Charge \$418.00	Commodity Delivery Charge
		\$0.10690 / ccf, first 20,000
		\$0.07970 / ccf, greater than 20,000
		+ take-or-pay costs set for on Sheet 1 of 1

The minimum monthly bill shall be the facility charge, the demand charge, if any, and the EFM facilities charge, if applicable.

3. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the applicable companion sales rate schedule conditions and to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Constructions of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

Issued: September 9 2022
 (Month) (Day) (Year)

Effective: May 9 2023
 (Month) (Day) (Year)

By: /s/ Jared Geiger Vice President, Rates & Regulatory Affairs
 (Signature of Officer) (Title)

23-ATMG-359-RTS
 Approved KALF
 Kansas Corporation Commission
 May 9, 2023
 /s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
 (Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
 (Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

C. Interruptible Negotiated Transportation Service (Rate Schedule IT-NEG)

1. AVAILABILITY

a. Gas service under this rate schedule is available to those customers having alternate fuel capability at the Company's discretion. This rate schedule is designed to permit the Company to meet alternate fuel and/or gas to gas competition. Service under this rate schedule shall be fully optional and subject to curtailment prior to optional customers.

b. The intent of this rate schedule is to provide the Company flexibility to provide service at negotiated rates when the otherwise applicable tariff rates are noncompetitive. The Company will make every effort to maximize recovery of base margins and fixed components of the purchased gas adjustment.

c. The Company's decision to enter into a discounted service agreement and the amount of the discount will be subject to review by the Commission at the Company's next rate case for the purpose of setting future rates. Discounted service agreements shall be granted only to retain or obtain a Customer who has a credible competitive alternative available. The amount of the discount from the maximum approved tariff rate shall be the least necessary to retain or obtain the customer.

d. In situations where the discounted service agreement involves a company affiliate, Company shall file with the Commission a copy of the agreement with all supporting documentation and worksheets, within 10 days of the date of the agreement.

2. MONTHLY BILL

a. Facilities Charge \$300.00 per month

b. Commodity Delivery
 Charge

The rates charged under this rate schedule shall be negotiated on a per customer basis. The Company may require supporting documents from the end-user certifying that the cost of available alternate supply is less than the otherwise applicable tariff rate. The maximum charge shall not exceed the sales rate schedule under which the customer would otherwise be charged. In no event shall the price negotiated be less than the incremental costs of serving the Customer plus \$0.001/Ccf.

The minimum monthly bill shall be the monthly facility charge.

Issued: June 25 2020
 (Month) (Day) (Year)

Effective: October 1 2020
 (Month) (Day) (Year)

By: /s/ Jared Geiger Vice President, Rates & Regulatory Affairs
 (Signature of Officer) (Title)

19-ATMG-525-RTS
 Approved **DH**
 Kansas Corporation Commission
 June 25, 2020
 /s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION

SCHEDULE V- Purchased Gas Adjustment (PGA)

(Name of Issuing Utility)

ENTIRE SERVICE AREA

(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

$$\frac{P + E + S}{V} = \text{Adjustment}$$

Where:

P = The estimated total dollar cost of purchased gas to be sold calculated by summing the products of the most recent unit cost of purchased gas from each supplier and the estimated unit purchases from each supplier for the twelve month period ending August 31. In the event that changes in the rates paid for purchased gas will take place within the current twelve month period ending August 31, as specified by contract provisions currently in effect, the estimated average unit cost of purchased gas from each supplier for the current twelve month period ending August 31, may be used in the calculation in place of the most recent unit cost.

E = Estimated net cost (positive or negative) arising from exchange gas transactions that are expected to occur during the twelve month period ending August 31 (Account 806), not including storage gas transactions.

S = Estimated cost of stored gas to be withdrawn from storage (Account 808) and sold.

V = The estimated sales volume in Ccf for the twelve month period ending August 31. (If the actual sales volume reflects a line loss factor greater than the limit value, restatement of sales volume, based on the limit value for line loss, shall be required.)

Interruptible volumes sold under Rate Schedule 955 and 960 shall not be billed the demand costs, or its equivalent, contained in the PGA computed in accordance with the above-stated formula, but shall be billed the remaining costs contained in the PGA formula.

In addition to the PGA less demand costs, or its equivalent, Rate Schedule 955 and 960 shall also have applied to the volumes sold the sum of the Southern Star Central Gas Pipeline, Inc.'s maximum ITS-P and ITS-M commodity delivery rates, adjusted for fuel reimbursement percentages, as set forth in Southern Star Central Gas Pipeline, Inc.'s tariff on file with the Federal Energy Regulatory Commission.

Issued:	September 30	2022	23-ATMG-387-PGA Approved <i>JG</i> Kansas Corporation Commission November 1, 2022 /s/ Lynn Retz
	(Month) (Day)	(Year)	
Effective:	November 1	2022	
	(Month) (Day)	(Year)	
By:	/s/ Kathleen R. Ocanas VP Rates & Reg Affairs		
	(Signature of Officer)	(Title)	

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION

(Name of Issuing Utility)

SCHEDULE IX- Tax Reform Credit

ENTIRE SERVICE AREA

(Territory to which Schedule is applicable)

No Supplement or separate understanding
shall modify the tariff as shown hereon.

Sheet 1 of 2 Sheets

Tax Reform Credit**APPLICABILITY**

This rider is applicable to every bill for service provided under each of the Company's sales and transportation rate schedules except where not permitted under a separately negotiated contract with a customer.

RATE

The Tax Reform surcharge (credit) shall be applied to each monthly bill. The surcharge (credit) is reflected below:

Customer Class	Facility Charge	Commodity	Delivery Charge
Residential (910):	\$0.00		
Commercial and Public Authority (915):	\$0.00		
Schools (920):	\$0.00		
Industrial Firm (930):	\$0.00		
Small Generator Service (940):	\$0.00		
Irrigation Engine (965):	\$0.00		
Transport Interruptible (IT900):	\$0.00		
School Firm Transportation (920):	\$0.00		
Firm Transportation (FT900):	\$0.00		

Issued:	<u>May</u>	<u>1</u>	<u>2023</u>	23-ATMG-359-PGA Approved KALF Kansas Corporation Commission May 9, 2023 /s/ Lynn Retz
	(Month)	(Day)	(Year)	
Effective:	<u>May</u>	<u>9</u>	<u>2023</u>	
	(Month)	(Day)	(Year)	
By:	<u>/s/ Kathleen R. Ocanas VP Rates & Reg Affairs</u>			
	(Signature of Officer)		(Title)	

Form RF	Index No.
THE STATE CORPORATION COMMISSION OF KANSAS	
ATMOS ENERGY CORPORATION (Name of Issuing Utility)	SCHEDULE IV: Sales and Transportation Rates
ENTIRE SERVICE AREA (Territory to which Schedule is applicable)	
No Supplement or separate understanding shall modify the tariff as shown hereon.	
Sheet 5 of 21 Sheets	

SECTION 2 - FIRM SALES SERVICE

A. Residential Sales Service (Rate Schedule 910)

1. **APPLICABILITY**

Available in and around the communities specified in the Section 1 A. to residential customers at a single location.

2. **MONTHLY BILL**

- a. Facilities Charge: \$ 19.75 per month
- b. Delivery Charge: \$0.17110 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA and WNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. **BASIS OF MEASUREMENT**

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. **OTHER TERMS AND CONDITIONS**

Service hereunder is subject to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Construction of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

5. **GAS LIGHTS**

For all gas light services, the charge for such services shall be based on actual usage through a metered source at this tariff rate. For all unmetered gas light service, the Company may estimate and determine the appropriate consumption of the light and charge the applicable rate under this rate schedule.

Issued:	<u>May</u>	<u>9</u>	<u>2023</u>	
	(Month)	(Day)	(Year)	23-ATMG-359-RTS Approved <i>KALF</i>
Effective:	<u>May</u>	<u>9</u>	<u>2023</u>	Kansas Corporation Commission May 9, 2023 /s/ Lynn Retz
	(Month)	(Day)	(Year)	
By:	<u>/s/ Kathleen R. Ocanas Vice President, Rates & Regulatory Affairs</u>			
	(Signature of Officer)		(Title)	

EXHIBIT D

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
 (Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
 (Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

B. Commercial/Public Authority (General) Sales Service (Rate Schedule 915)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to commercial and public authority customers at a single location.

2. MONTHLY BILL

- a. Facilities Charge: \$50.00 per month
- b. Delivery Charge: \$0.15382 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA and WNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Construction of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas

5. GAS LIGHTS

For all gas light services, the charge for such services shall be based on actual usage through a metered source at this tariff rate. For all unmetered gas light service, the Company may estimate and determine the appropriate consumption of the light and charge the applicable rate under this rate schedule.

Issued: May 9 2023
 (Month) (Day) (Year)

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 (Month) (Day) (Year)

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 (Signature of Officer) (Title)

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 /s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
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No Supplement or separate understanding shall modify the tariff as shown hereon.

C. School Sales Service (Rate Schedule 920)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to state, county, city and private educational institutions or universities constructed before January 1, 1995 at a single location.

2. MONTHLY BILL

- a. Facilities Charge: \$62.50 per month
- b. Delivery Charge: \$0.16830 per 100 cubic feet (Ccf plus applicable adjustments and charges provided in the Company's PGA and WNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

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/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

D. Industrial Sales Service (Rate Schedule 930)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to industrial customers at a single location.

2. MONTHLY BILL

- a. Facilities Charge: \$104.00 per month
- b. Delivery Charge: \$0.16200 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA and WNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Construction of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

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23-ATMG-359-RTS
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Kansas Corporation Commission
May 9, 2023
/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

E. Small Generator Sales Service (Rate Schedule 940)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to commercial customers, at a single location, for separately metered electric generators of less than 20 kilowatts of capacity.

2. MONTHLY BILL

- a. Facilities Charge: \$50.00 per month
- b. Delivery Charge: \$0.16000 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA Schedules.

The minimum bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

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/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

F. Irrigation Engine Sales Service (Rate Schedule 965)

1. APPLICABILITY

Available in and around the communities specified in the Section 1 A. to engine irrigation customers at a single location.

2. MONTHLY BILL

- a. Facilities Charge: \$100.00 per month
- b. Delivery Charge: \$0.11735 per 100 cubic feet (Ccf) plus applicable adjustments and charges provided in the Company's PGA and VNA Schedules.

The minimum monthly bill shall be no less than the Facility Charge plus any applicable service charges.

3. BASIS OF MEASUREMENT

Natural gas delivered shall be measured at prevailing meter pressures and the volumes thereof shall be computed at a pressure base of 14.65 pounds per square inch at a temperature of 60 degrees Fahrenheit. The Company may assume that the gas delivered obeys Boyle's Law and atmospheric pressure is 14.4 pounds per square inch and the flowing temperature of the gas in the meter is 60 degrees Fahrenheit.

4. OTHER TERMS AND CONDITIONS

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May 9, 2023
/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
 (Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
 (Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

1. RATE

- a. Facilities Charge \$330.00
- b. Delivery Charge \$0.09660/ ccf first 20,000
\$0.08259/ ccf greater than 20,000

2. DEMAND RATE

- a. Demand Rate The sum of the reservation cost for which the Company has contracted with Southern Star Central Gas Pipeline, Inc., per Ccf of Contract Demand.
- b. Daily Demand Rate The Demand Rate divided by 30.4 days, per Ccf per day for all gas in excess of the Contract Demand level.

3. MONTHLY BILL

The minimum monthly bill applicable at single address or location shall be the sum of the Facility Charge and the Demand Charge, Daily Demand Charge and the Delivery Charge as follows:

- a. The Demand Charge shall be the product of the demand level nominated by the Customer and the Demand Rate.
- b. The Daily Demand Charge shall be the product of the unauthorized volumes taken by Customer when curtailed by Company under this rate schedule on each day during the billing period in excess of the demand level nominated by the Customer and the Daily Demand Rate.
- c. The Delivery Charge shall be the product of all volumes delivered under this rate during the billing period and the Delivery Rate.

Issued: _____
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Effective: May 9 2023
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By: /s/ Kathleen R. Ocanas Vice President, Rates & Regulatory Affairs
 (Signature of Officer) (Title)

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 /s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
 (Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
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No Supplement or separate understanding shall modify the tariff as shown hereon.

SECTION 4-TRANSPORTATION SERVICE

A. General Service Firm Transportation Service (Rate Schedule FT900)

1. AVAILABILITY

See Schedule I, Section 12 A - Transportation Services

2. MONTHLY BILL

Companion Sales Schedule	Facility Charge	Delivery Charge
915	\$150.00	\$0.15305/ ccf + take-or-pay costs set for on Sheet 1 of 1
920	\$109.00	\$0.16100/ ccf + take-or-pay costs set for on Sheet 1 of 1
930	\$150.00	\$0.15305/ ccf + take-or-pay costs set for on Sheet 1 of 1
965	\$143.00	\$0.10420/ ccf + take-or-pay costs set for on Sheet 1 of 1

The minimum monthly bill shall be the facility charge, the demand charge, if any, and the EFM facilities charges, if applicable.

3. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the applicable companion sales rate schedule conditions and to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Constructions of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

Issued: September 9 2022
 (Month) (Day) (Year)

Effective: May 9 2023
 (Month) (Day) (Year)

By: /s/ Jared Geiger Vice President, Rates & Regulatory Affairs
 (Signature of Officer) (Title)

23-ATMG-359-RTS
 Approved KALF

Kansas Corporation Commission
 May 9, 2023
 /s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

B. Interruptible Transportation Service (Rate Schedule IT900)

1. AVAILABILITY

See Schedule I, Section 12 A- Transportation Services

2. MONTHLY BILL

Companion Sales Schedule	Facility Charge	Delivery Charge
955	\$418.00	\$0.10690 / ccf, first 20,000 \$0.07970 / ccf, greater than 20,000 + take-or-pay costs set for on Sheet 1 of 1

The minimum monthly bill shall be the facility charge, the demand charge, if any, and the EFM facilities charge, if applicable.

3. OTHER TERMS AND CONDITIONS

Service hereunder is subject to the applicable companion sales rate schedule conditions and to the Company's General Terms and Conditions for Service including Curtailment of Service, Service Fee Schedule and Schedule of Customer Advances for Constructions of Mains and Company Service Lines as approved by the State Corporation Commission of the State of Kansas.

Issued:	<u>September</u>	<u>9</u>	<u>2022</u>	
	(Month)	(Day)	(Year)	
Effective :	<u>May</u>	<u>9</u>	<u>2023</u>	
	(Month)	(Day)	(Year)	
By:	<u>/s/ Jared Geiger</u>			
	(Signature of Officer)			
	<u>Vice President, Rates & Regulatory Affairs</u>			
	(Title)			

23-ATMG-359-RTS
Approved KALF

Kansas Corporation Commission
May 9, 2023
/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION
(Name of Issuing Utility)

SCHEDULE IV: Sales and Transportation Rates

ENTIRE SERVICE AREA
(Territory to which Schedule is applicable)

No Supplement or separate understanding
shall modify the tariff as shown hereon.

Sheet 20 of 21 Sheets

C. Interruptible Negotiated Transportation Service (Rate Schedule IT-NEG)1. AVAILABILITY

a. Gas service under this rate schedule is available to those customers having alternate fuel capability at the Company's discretion. This rate schedule is designed to permit the Company to meet alternate fuel and/or gas to gas competition. Service under this rate schedule shall be fully optional and subject to curtailment prior to optional customers.

b. The intent of this rate schedule is to provide the Company flexibility to provide service at negotiated rates when the otherwise applicable tariff rates are noncompetitive. The Company will make every effort to maximize recovery of base margins and fixed components of the purchased gas adjustment.

c. The Company's decision to enter into a discounted service agreement and the amount of the discount will be subject to review by the Commission at the Company's next rate case for the purpose of setting future rates. Discounted service agreements shall be granted only to retain or obtain a Customer who has a credible competitive alternative available. The amount of the discount from the maximum approved tariff rate shall be the least necessary to retain or obtain the customer.

d. In situations where the discounted service agreement involves a company affiliate, Company shall file with the Commission a copy of the agreement with all supporting documentation and worksheets, within 10 days of the date of the agreement.

2. MONTHLY BILL

- a. Facilities Charge \$300.00 per month
b. Delivery Charge

The rates charged under this rate schedule shall be negotiated on a per customer basis. The Company may require supporting documents from the end-user certifying that the cost of available alternate supply is less than the otherwise applicable tariff rate. The maximum charge shall not exceed the sales rate schedule under which the customer would otherwise be charged. In no event shall the price negotiated be less than the incremental costs of serving the Customer plus \$0.001/Ccf.

The minimum monthly bill shall be the monthly facility charge.

Issued:	<u>June</u>	<u>25</u>	<u>2020</u>
	(Month)	(Day)	(Year)
Effective:	<u>October</u>	<u>1</u>	<u>2020</u>
	(Month)	(Day)	(Year)
By:	<u>/s/ Jared Geiger</u>	<u>Vice President, Rates & Regulatory Affairs</u>	
	(Signature of Officer)	(Title)	

19-ATMG-525-RTS
Approved **DH**
Kansas Corporation Commission
June 25, 2020
/s/ Lynn Retz

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION

SCHEDULE V- Purchased Gas Adjustment (PGA)

(Name of Issuing Utility)

ENTIRE SERVICE AREA

(Territory to which Schedule is applicable)

No Supplement or separate understanding shall modify the tariff as shown hereon.

$$\frac{P + E + S}{V} = \text{Adjustment}$$

Where:

P = The estimated total dollar cost of purchased gas to be sold calculated by summing the products of the most recent unit cost of purchased gas from each supplier and the estimated unit purchases from each supplier for the twelve month period ending August 31. In the event that changes in the rates paid for purchased gas will take place within the current twelve month period ending August 31, as specified by contract provisions currently in effect, the estimated average unit cost of purchased gas from each supplier for the current twelve month period ending August 31, may be used in the calculation in place of the most recent unit cost.

E = Estimated net cost (positive or negative) arising from exchange gas transactions that are expected to occur during the twelve month period ending August 31 (Account 806), not including storage gas transactions.

S = Estimated cost of stored gas to be withdrawn from storage (Account 808) and sold.

V = The estimated sales volume in Ccf for the twelve month period ending August 31. (If the actual sales volume reflects a line loss factor greater than the limit value, restatement of sales volume, based on the limit value for line loss, shall be required.)

Interruptible volumes sold under Rate Schedule 955 and 960 shall not be billed the demand costs, or its equivalent, contained in the PGA computed in accordance with the above-stated formula, but shall be billed the remaining costs contained in the PGA formula.

In addition to the PGA less demand costs, or its equivalent, Rate Schedule 955 and 960 shall also have applied to the volumes sold the sum of the Southern Star Central Gas Pipeline, Inc.'s maximum ITS-P and ITS-M delivery rates, adjusted for fuel reimbursement percentages, as set forth in Southern Star Central Gas Pipeline, Inc.'s tariff on file with the Federal Energy Regulatory Commission.

Issued:	September 30	2022	23-ATMG-387-PGA Approved  Kansas Corporation Commission November 1, 2022 /s/ Lynn Retz
	(Month) (Day)	(Year)	
Effective:	November 1	2022	
	(Month) (Day)	(Year)	
By:	/s/ Kathleen R. Ocanas VP Rates & Reg Affairs		
	(Signature of Officer)	(Title)	

THE STATE CORPORATION COMMISSION OF KANSAS

ATMOS ENERGY CORPORATION

SCHEDULE IX- Tax Reform Credit

(Name of Issuing Utility)

ENTIRE SERVICE AREA

(Territory to which Schedule is applicable)

No Supplement or separate understanding
shall modify the tariff as shown hereon.

Sheet 1 of 2 Sheets

Tax Reform Credit**APPLICABILITY**

This rider is applicable to every bill for service provided under each of the Company's sales and transportation rate schedules except where not permitted under a separately negotiated contract with a customer.

RATE

The Tax Reform surcharge (credit) shall be applied to each monthly bill. The surcharge (credit) is reflected below:

Customer Class	Facility Charge	Delivery Charge
Residential (910):	\$0.00	
Commercial and Public Authority (915):	\$0.00	
Schools (920):	\$0.00	
Industrial Firm (930):	\$0.00	
Small Generator Service (940):	\$0.00	
Irrigation Engine (965):	\$0.00	
Transport Interruptible (IT900):	\$0.00	
School Firm Transportation (920):	\$0.00	
Firm Transportation (FT900):	\$0.00	

Issued: <u>May</u> <u>1</u> <u>2023</u> (Month) (Day) (Year)	23-ATMG-359-PGA Approved KALF Kansas Corporation Commission May 9, 2023 /s/ Lynn Retz
Effective: <u>May</u> <u>9</u> <u>2023</u> (Month) (Day) (Year)	
By: <u>/s/ Kathleen R. Ocanas VP Rates & Reg</u> <u>Affairs</u> (Signature of Officer) (Title)	

Tax Policy
109 SW 9th Street
PO Box 3506
Topeka KS 66601-3506
Mark A. Burghart, Secretary



Phone: 785-368-8222
Fax: 785-296-1279
www.ksrevenue.gov
Laura Kelly, Governor

June 22, 2023

Brandon Honea
Partner, Tax
KPMG LLP
Suite 1400
2323 Ross Avenue
Dallas, TX 75201-2721

<bhonea@kpmg.com>

Re: Kansas Sales Tax

Dear Mr. Honea:

Your correspondence of May 24, 2023 has been referred to me for response. Thank you for your inquiry.

By your letter you have requested our opinion regarding Kansas sales tax. Specifically, your letter states:

KPMG LLP, on behalf of Atmos Energy Corporation (“Atmos Energy”), hereby requests a written ruling from the Kansas Department of Revenue (“KDOR”) regarding the following:

Whether Atmos Energy must collect sales tax on its separately stated “Facility Charge” and “Commodity Cost,” which are both primarily related to the delivery of natural gas.

The reasons for this request and the applicable statutory authority are outlined below.

Background

Atmos Energy, headquartered in Dallas, Texas, provides natural gas distribution via pipelines in eight states. There are approximately 139,000 residential, commercial, public authority, and industrial customers located in Kansas. The Kansas Corporation Commission (“KCC”) is the state agency which is responsible for regulating and approving the tariff rates and terms of natural gas distribution companies. The KCC’s

EXHIBIT E

oversight ensures that utilities provide safe, reliable, and affordable service to customers.

Atmos Energy Bill Charges

Atmos Energy currently collects and remits sales tax on the “Total Cost of Service” of providing and delivering safe and reliable natural gas to customers.¹ The Total Cost of Service includes:

1. A Facility Charge, which is a fixed monthly charge recovering delivery costs incurred to serve each customer. The Facility Charge is not impacted by the amount of gas consumed, nor does it include the cost of gas consumed by the customer. Depending on their tariff, some utility companies refer to this as a Fixed Delivery Charge, Customer Charge, Base Rate, or Service Charge.
2. A Commodity Cost, which is a charge recovering fixed and variable delivery costs incurred to serve each customer. It is a variable charge based on the customer’s monthly consumption, which accounts for the costs of owning, operating, and maintaining the natural gas pipeline system. Like the Facility Charge, it does not include the cost of gas consumed by the customer. Depending on their tariff, some utility companies refer to this as a Delivery Charge, Consumption Charge, or Distribution Charge.
3. A Purchased Gas Adjustment (“PGA”), which recovers the actual gas cost paid to suppliers and the transportation charges paid to deliver gas to Atmos Energy’s distribution system. It reflects market increases/decreases for natural gas without markup or other charges.
4. A Weather Normalization Amount (“WNA”), which is a seasonal adjustment that corrects for colder or warmer than normal weather.
5. A Gas System Reliability Surcharge (“GSRS”), which is a fixed surcharge to recover natural gas public utility plant projects that make the distribution system safer and more reliable.
6. A System Integrity Program (“SIP”), which recovers incremental capital investment required to accelerate the replacement of obsolete pipes and materials in the distribution system.
7. Franchise Fee and Taxes.²

¹ See K.S.A. § 79-3603(c), 18-189a

² See Atmos Energy’s approved Kansas Tariffs at <https://www.atmosenergy.com/utility-operationsrates/tariffs-kansas/>

Interpretation Request

A recent amendment to K.S.A. § 79-3602, pursuant to H.B. 2136, raises the question of whether Atmos Energy's separately stated Facility Charge and Commodity Cost are subject to sales tax. Specifically, H.B. 2136 amended K.S.A. § 79-3602(II), effective July 1, 2023, to exclude from the definition of "sales or selling price" delivery charges separately stated on the invoice, bill of sale or similar document given to the purchaser.³ In relevant part, "delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services.⁴ Conversely, the definition of "sales or selling price" does include:

- (A) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller and any other expense of the seller; and
- (B) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges.⁵

The Facility Charge and Commodity Cost together recover direct costs to procure and transport natural gas through Atmos Energy's distribution network to customers' meters. The Facility Charge and Commodity Cost also recover general operations and maintenance expenses used in operating Atmos Energy's natural gas distribution system. As such, we are requesting a written interpretation whether the separately stated Facility Charge (also referred to by other utility companies as Fixed Delivery Charge, Customer Charge, Base Rate, or Service Charge) and Commodity Cost (also referred to by other utility companies as Delivery Charge, Consumption Charge, or Distribution Charge) constitute "delivery charges" as defined by K.S.A. § 79-3602(i) and are thus excludible from the sales or selling price of natural gas subject to Kansas Retailers' Sales Tax.

Atmos Energy's assumption is that billing components 3-7 above are not impacted by the amendment of K.S.A. § 79-3602(II), effective July 1, 2023. Please provide the KDOR's position on whether these charges are subject to Kansas Retailers' Sales Tax.

We appreciate your consideration in this matter and will provide additional information upon request to demonstrate the facts represented herein. Please contact Cameron Bliss at (816) 802-5308 or me at (214) 840-4189 if you have any questions or need additional information related to this request.

* * * * *

³ See K.S.A. §§ 79-3602(II)(1)(D)(ii), (II)(3)(F)

⁴ K.S.A. § 79-3602(i)

⁵ K.S.A. §§ 79-3602(II)(1)(B)-(C)

Before addressing your specific questions and concerns, I want to note the statement in your letter that, “. . . H.B. 2136 amended K.S.A. § 79-3602(11), effective July 1, 2023, to exclude from the definition of “sales or selling price” delivery charges separately stated on the invoice, bill of sale or similar document given to the purchaser.” Your statement is exactly correct. For Kansas sales tax purposes, exemptions from sales tax are specifically provided by K.S.A. 79-3606. The provisions of K.S.A. 79-3602(11) define the term “sales or selling price” which addresses “the measure subject to sales tax”, otherwise referred to as the sales tax base. Under the change going into effect July 1st, delivery fees that are separately stated on the invoice, bill of sale or similar document given to the purchaser are not subject to sales tax because they are not included in the selling price of the good or service being sold. They are not “exempt” as that term of art is used for sales tax purposes.

In addition, please be aware of our newly issued Notice 23-02 Delivery Fees Charged by a Retailer, a copy of which is available through our website at: www.ksrevenue.gov. In that Notice we state, in part:

The term “delivery charges” is defined in K.S.A. 79-3602(i). The subsection provides as follows:

(i) “Delivery charges” means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing. Delivery charges shall not include charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

Like exemptions from the sales tax, exclusions from the sales tax base are narrowly construed. Kansas courts have clearly stated taxation is the rule and exemption the exception. Accordingly, to qualify for the exclusion from the sales tax base, delivery charges that are separately stated on the invoice, bill of sale, or similar document provided to a purchaser must be clearly denominated as charges for: (1) delivery; (2) transmission; or (3) transportation. Charges that are not clearly so denominated on the invoice, bill of sale, or similar document provided to a purchaser will be included in the tax base as part of the gross receipts from the sale.

.....

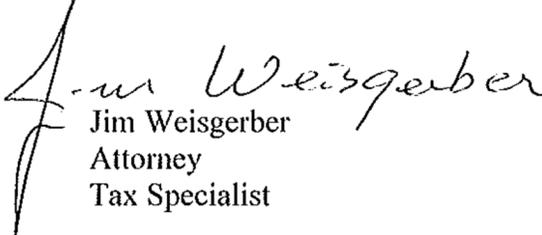
The decision of how to prepare and issue a billing statement to a customer is up to the retailer. K.S.A. 79-3602(11)(1)(D)(ii) does not mandate that delivery charges be separately stated on the invoice, bill of sale or similar document given to the purchaser. If delivery charges are not separately stated they will be included in the sales or selling price, and so will be subject to sales tax, but retailers that do not break out delivery fees will not be obligated to do so and, instead, for sales tax purposes will be able to maintain

current business practices for the foreseeable future. The Department of Revenue declines to opine or give advice regarding billing issues that are not directly related to sales tax.

Turning to your specific inquiry, you ask whether the separately stated Facility Charge (also referred to by other utility companies as Fixed Delivery Charge, Customer Charge, Base Rate, or Service Charge) and Commodity Cost (also referred to by other utility companies as Delivery Charge, Consumption Charge, or Distribution Charge) constitute “delivery charges” as defined by K.S.A. § 79-3602(i) and are excludible from the sales or selling price of natural gas subject to Kansas Retailers’ Sales Tax. The answer is no. To be excluded from the sales or selling price, delivery charges must be separately stated on the invoice, bill of sale, or similar document provided to a purchaser and clearly denominated as charges for: (1) delivery; (2) transmission; or (3) transportation. Based on the information you have provided, the Facility Charge and Commodity Cost are not separately stated and denominated as explained in Notice 23-02.

I trust this information is of assistance. If I can be of further service, please feel free to contact me.

Sincerely,



Jim Weisgerber
Attorney
Tax Specialist

NOTE: This private letter ruling / opinion letter is based solely on the facts provided in your request for advice. If material facts or information were not disclosed this letter is null and void. This letter will be revoked without further action by the Department if the statutes, administrative regulations, published revenue rulings, or court decisions that materially affect this opinion are changed.