

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

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

In the Matter of the Application of Atmos)
Energy for Approval of the Commission for)
Gas System Reliability Surcharge per K.S.A.) Docket No. 18-ATMG-218-TAR
66-2201 through 66-2204.)

ORDER APPROVING GAS SYSTEM RELIABILITY SURCHARGE

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records, and being duly advised in the premises, the Commission makes the following findings and conclusions:

I. BACKGROUND

1. On November 21, 2017, Atmos Energy (Atmos), filed its Application for revisions to its Gas System Reliability Surcharge (GSRS) tariff.¹ In its Application, Atmos requests a GSRS to recover costs for eligible infrastructure system replacements.² If the Application were approved as filed, the proposed revenue increase would be \$936,614.³ Atmos provided Direct Testimony from two witnesses: Jennifer G. Ries and Barton W. Armstrong.⁴

¹ Application of Atmos Energy for Gas System Reliability Surcharge (Nov. 21, 2017) (Application).

² See *id.* at p. 1.

³ See *id.* at p. 4. However, as noted by Staff and detailed in this Order, Atmos' request is subject to statutory limitations.

⁴ See Direct Testimony of Jennifer G. Ries on Behalf of Atmos Energy Corporation (Nov. 21, 2017); See also Direct Testimony of Barton W. Armstrong on Behalf of Atmos Energy Corporation (Nov. 21, 2017).

2. On November 27, 2017, the Citizens' Utility Ratepayer Board (CURB) filed, among other things, a Petition to Intervene in this proceeding.⁵ The Commission granted CURB's intervention on December 14, 2017.⁶

3. On January 19, 2018, Commission Staff (Staff) filed a Report and Recommendation (R&R) analyzing and recommending approval of Atmos' GSRS request subject to modification.⁷ On January 23, 2018, Atmos provided a Response to Staff's R&R concurring with the recommendations contained on page 5 of Staff's R&R relating to the per-customer GSRS listed in Staff Exhibit 2, and approval of \$819,607 in incremental GSRS revenue to be collected by Atmos via the monthly charge.⁸

II. DISCUSSION

4. The Gas Safety and Reliability Policy Act, K.S.A. 66-2001 through 66-2004, was enacted by the Kansas Legislature in July 2006 and contains statutory provisions natural gas public utilities may use to recover costs for certain infrastructure projects through a monthly customer surcharge.⁹ These statutory provisions only apply to limited projects that replace infrastructure or extend the useful life of existing infrastructure and are further limited to projects required for compliance with pipeline safety regulations or for facility relocation.¹⁰

5. Although Atmos initially proposed a GSRS revenue increase of \$936,614 in its Application, line 7 of Atmos' Exhibit 2 showed Atmos could only collect \$820,854 due to statutory limitations.¹¹ Taking into account these limitations, Staff reviewed testimony, exhibits,

⁵ See CURB Petition to Intervene and Motion for Protective Order and Discovery Order (Nov. 27, 2017).

⁶ Order Granting CURB Intervention, Protective Order and Discovery Order (Dec. 24, 2017).

⁷ See Notice of Filing of Staff's Report and Recommendation (Jan. 19, 2018) (R&R).

⁸ Atmos Energy's Response to Staff's Report and Recommendation (Jan. 23, 2018).

⁹ See R&R at p. 2.

¹⁰ See *id.* at p. 2.

¹¹ See *id.* at p. 1, n.1. "This adjustment was applied to the initial revenue requirement to prevent the monthly surcharge to residential customers from exceeding \$.40. K.S.A. 66-2204(e)(1) states such monthly charge shall not increase more than \$.40 per residential customer over the base rates in effect for the initial filing of a GSRS.

and discovery responses from Atmos.¹² At the conclusion of this review, Staff recommend \$6,100 of the \$7,683,656 in requested capital costs be excluded from recovery through the GSRS.¹³ The excluded amount of \$6,100 is related to the cost of replacing service lines associated with excavation damages for which Atmos was responsible.¹⁴ Staff found the remaining \$7,677,556 of capital expenditures requested by Atmos met the eligibility requirements for recovery through a GSRS surcharge.¹⁵ Due to these exclusions in capital costs, Staff recommended an incremental GSRS revenue of \$819,607, which is a \$1,247 reduction from Atmos' (implied but limited to the statutory cap) requested amount of \$820,854.¹⁶ If this recommendation were to be approved, Atmos' residential customers' bills would increase by \$0.40 monthly or \$4.80 annually.¹⁷

6. Staff performed an audit of Atmos' Application to verify the surcharge was properly calculated and based solely on the projects included in the Application.¹⁸ Staff issued discovery requesting invoices and general ledger entries on a random sample of projects included in the Application.¹⁹ Upon reviewing the documentation provided by Atmos, Staff found no errors or concerns.²⁰

7. In addition to verifying Atmos' GSRS-specific request, Staff evaluated whether the Commission should adjust Atmos' filed GSRS to account for reductions in corporate income

Thereafter, each filing shall not increase the monthly charge more than \$.40 per residential customer over the most recent filing of a GSRS." R&R p. 1, n.1. (internal quotation marks omitted).

¹² See R&R at p. 1.

¹³ See *id.* at p. 1.

¹⁴ See *id.* at p. 4.

¹⁵ See *id.* at p. 1.

¹⁶ See R&R at p. 1. The exhibits supporting Staff's revenue requirement calculation are attached to Staff's R&R as Staff Updated Exhibits 1, 2, 5, and 9.

¹⁷ See R&R at pp. 1-2.

¹⁸ See *id.* at p. 4.

¹⁹ See *id.*

²⁰ See *id.*

tax expense resulting from the implementation of the Tax Cuts and Jobs Act.²¹ Atmos recommended utilizing the Commission's existing general investigation, Docket No. 18-GIMX-248-GIV (18-248 Docket), as the best place to handle the impact of the tax changes.²² Staff did not object to Atmos' request to calculate the overall tax savings effects in the 18-248 Docket primarily because the full range of calculations necessary to review and incorporate rates resulting from the Tax Cuts and Jobs Act are complicated and best handled in a comprehensive fashion.²³ Additionally, Staff noted the 18-248 Docket will compensate customers for the loss of their time value of money.²⁴

8. Ultimately, Staff recommended the Commission approve for Atmos an incremental GSRS revenue requirement of \$819,607 to be collected via a per-customer surcharge with the following conditions:

- a. Atmos must file updated GSRS tariffs to reflect the changes in the per-customer surcharge as discussed prior to billing the new surcharges;
- b. Atmos must file a GSRS true-up pursuant to K.S.A. 66-2204(e)(2); and
- c. Staff will review Atmos' true-up filing to ensure the amounts recovered via the surcharge are appropriate and any over/under-recoveries will be refunded to or recovered from customers at that time.²⁵

III. FINDINGS AND CONCLUSIONS

9. Upon review of the record as a whole, the Commission finds Atmos' GSRS Application and proposal, as modified by Staff's R&R, to be reasonable and therefore adopts the

²¹ See R&R at p. 4.

²² See *id.*

²³ See *id.* at p. 5.

²⁴ See *id.*

²⁵ See *id.*

same. Staff's R&R dated January 18, 2018, and filed in this docket on January 19, 2018, is hereby adopted by the Commission and incorporated by reference into this Order.

10. Pursuant to K.S.A. 66-2203(a), a natural gas public utility providing gas service may file a petition and proposed rate schedules with the Commission to change its GSRS rate schedules that will allow for the adjustment of the natural gas public utility's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements. The Commission finds and concludes Atmos is a natural gas public utility providing gas service, and submitted the instant Application pursuant to Kansas' GSRS statutes. Accordingly, the Commission finds and concludes it has jurisdiction to render a decision on Atmos' request.

11. Pursuant to K.S.A. 66-2203(a), the Commission may not approve a GSRS to the extent it would produce total annualized GSRS revenues below the lesser of \$1,000,000 or ½% of the natural gas public utility's base revenue level approved by the Commission in the natural gas public utility's most recent general rate proceeding. Based on Atmos' most recent general rate proceeding, the lesser of these amounts total approximately \$303,000.²⁶ As detailed above, Atmos' GSRS request as modified by Staff's R&R produces incremental GSRS revenues of \$819,607. Accordingly, the Commission finds and concludes Atmos' instant GSRS request satisfies the minimum annualized revenue requirement.

12. Pursuant to K.S.A. 66-2203(a), the Commission may not approve a GSRS to the extent it would produce total annualized GSRS revenues exceeding 10% of the natural gas public utility's base revenue level approved by the Commission in the natural gas public utility's most recent general rate proceeding. Upon a full review of the record before the Commission, there is no evidence in the record indicating Atmos' GSRS request in the instant matter, as modified by Staff, will result in revenues exceeding the GSRS' limitation. Accordingly, the Commission

²⁶ See Application at pp. 3-4.

finds and concludes Atmos' GSRS request will not exceed the maximum annualized GSRS revenues permitted by Kansas law.

13. Pursuant to K.S.A. 66-2203(b), the Commission may not approve a GSRS for any natural gas public utility that has not had a general rate proceeding decided or dismissed by the Commission within the past 60 months unless the natural gas public utility has filed for or is currently undergoing a general rate proceeding. Atmos' most recent general rate proceeding (Docket No. 16-ATMG-079-RTS) concluded less than 60 months ago, and the projects inclusive of this GSRS request were completed subsequent to the March 31, 2015,²⁷ test period used in Atmos' last general rate filing.²⁸ Accordingly, the Commission finds and concludes Atmos' instant GSRS request is timely.

14. A natural gas public utility may not collect a GSRS for a period exceeding 60 months unless the natural gas public utility has filed for or currently undergoing a general rate proceeding.²⁹ Upon motion by a natural gas public utility, the Commission may extend this 60-month deadline for a period of up to 12 months as the Commission determines reasonable or necessary.³⁰ A natural gas public utility may effectuate a change in its GSRS no more often than once every 12 months.³¹ Because Atmos' last general rate proceeding was less than 60 months ago, and because GSRS revenues are rolled into base rates during general rate proceedings, Atmos has not collected its current GSRS for a period exceeding 60 months. Accordingly, the Commission finds and concludes Atmos' instant GSRS request appropriately falls within the

²⁷ See Order on Reconsideration, Docket No. 16-ATMG-079-RTS (Apr. 26, 2016); *see also* Final Order, Docket no. 16-ATMG-079-RTS (Dec. 22, 2016).

²⁸ See Application at p. 4.

²⁹ K.S.A. 66-2203(c). However, a GSRS may be collected until the effective date of new rate schedules are established as a result of the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a Commission order without new rates being established. *See* K.S.A. 66-2203(c).

³⁰ *See* K.S.A. 66-2203(d).

³¹ K.S.A. 66-2204(c).

time period between general rate proceedings. Furthermore, Atmos' preceding GSRS request (Docket No. 17-ATMG-141-TAR) concluded February 9, 2017. Accordingly, the Commission finds and concludes approval of Atmos' instant GSRS request does not violate Kansas' limitation on one GSRS change per 12 month period.

15. Upon the filing of a petition to establish or change a GSRS, Commission Staff must submit a report regarding Staff's examination of the petition to the Commission no later than 60 days after the petition is filed.³² Staff submitted its R&R on Atmos' instant GSRS request on January 19, 2018, less than 60 days after Atmos submitted its Application for a revised GSRS. Accordingly, the Commission finds and concludes Staff's R&R was timely submitted in this proceeding.

16. The Commission may hold a hearing on a petition to establish or change any associated GSRS rate schedules and is required to issue an order to become effective no later than 120 days after the petition is filed.³³ Accordingly, the Commission finds and concludes it must issue an order on this matter effective no later than March 21, 2018.

17. To determine the appropriate pretax revenue, K.S.A. 66-2204(d) provides a limited list of factors the Commission may consider.³⁴ K.S.A. 66-2204(e)(1) details the manner in which a GSRS charge shall be allocated among the natural gas public utility's customer classes. Monthly GSRS charges are to be allocated among the natural gas public utility's customer classes in the same manner as costs for the same type of facilities as allocated among customer classes in the natural gas public utility's most recent general rate proceeding.³⁵ In the event this allocation is not available or determinable, the Commission must utilize the average of

³² See K.S.A. 66-2204(b)(2).

³³ K.S.A. 66-2204(b)(3).

³⁴ See *e.g.* K.S.A. 66-2204(d)(1) – (9).

³⁵ K.S.A. 66-2204(e)(1).

the recommendations contained in testimony submitted by the natural gas public utility and Staff regarding class allocation of costs.³⁶ A GSRS shall be charged to customers as a monthly fixed charge and not based on volumetric consumption.³⁷

18. Initial requests for a GSRS may not increase more than \$0.40 per residential customer over the base rates in effect at the time of the initial filing.³⁸ Subsequent requests to increase a GSRS may not charge more than \$0.40 per residential customer over the most recently approved GSRS.³⁹ GSRS provisions require, among other things, subsequent review and resetting of GSRS surcharges during general rate proceedings.⁴⁰ Upon review of Atmos' GSRS request and subsequent modifications by Staff, the Commission finds the incremental collection from Atmos' residential ratepayers will not exceed \$0.40 per residential customer over Atmos' most recent GSRS filing.

19. Upon review of the record as a whole, the Commission finds and concludes approval of Atmos' GSRS request, as revised by Staff, is in the public interest and will result in the just and reasonable collection of \$819,607 in incremental GSRS revenues from Atmos' customers. Furthermore, the Commission finds monthly collection of the GSRS as listed in Exhibit 2 to Staff's R&R is a reasonable method of collecting the GSRS revenue requirement. Therefore, pursuant to K.S.A. 66-2204 the Commission finds and concludes Atmos shall be permitted to increase its GSRS to the total proposed surcharge contained within Exhibit 2 to

³⁶ K.S.A. 66-2204(e)(1).

³⁷ *Id.*

³⁸ *See id.*

³⁹ *Id.*

⁴⁰ *See e.g.* K.S.A. 66-2204(f) – (i). Additionally, on an annual basis natural gas public utilities utilizing a GSRS must reconcile the differences between revenues received from a GSRS and the appropriate pretax revenues as found by the Commission for that period. *See* K.S.A. 66-2204(e)(2). Accordingly, a natural gas public utility must submit a reconciliation and proposed GSRS adjustment for Commission approval to recover or refund the difference through adjustments to the GSRS charge. *See* K.S.A. 66-2204(e)(2).

Staff's R&R upon the filing of an updated GSRS tariff reflecting such rates, and in a manner consistent with Staff's Report and Recommendation and this Order.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Atmos Energy's Gas System Reliability Surcharge, as revised by Staff, is approved.

B. Atmos Energy's Gas System Reliability Surcharge shall be collected via the monthly charges listed in Exhibit 2 to Staff's R&R.

C. Atmos Energy is hereby ordered to file a revised Gas System Reliability Surcharge tariff reflecting such recommendations from Staff prior to recovering monthly Gas System Reliability Surcharge revenues. Likewise, Atmos must file a Gas System Reliability Surcharge true-up pursuant to K.S.A. 66-2204(e)(2). Staff shall review Atmos' true-up filing to ensure the amounts recovered via the surcharge are appropriate and any over/under-recoveries will be refunded to or recovered from customers at that time

D. Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration or request a hearing, as provided in K.S.A. 77-542.

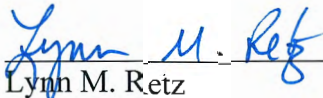
E. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order, or orders, as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

FEB 27 2018

Dated: _____

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Lynn M. Retz
Secretary to the Commission

REV

CERTIFICATE OF SERVICE

18-ATMG-218-TAR

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on FEB 27 2018.

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