

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

Before Commissioners: Susan K. Duffy, Chair  
Dwight D. Keen  
Andrew J. French

In the Matter of the Application of the Gas )  
Utilities for an Accounting Order Allowing the )  
Gas Utilities to Record and Preserve Costs and ) Docket No. 20-GIMG-423-ACT  
Lost Revenues Related to the COVID-19 )  
Virus. )

AND

In the Matter of Atmos Energy Corporation )  
Filing Compliance Reports and Information as ) Docket No. 21-ATMG-044-CPL  
Prescribed by Commission Order Dated July 9, )  
2019, in Docket No. 20-GIMG-423-ACT )

**ORDER GRANTING MOTION TO FILE MONTHLY REPORT OUT OF TIME**

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

1. On April 14, 2020, Black Hills Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills); Kansas Gas Service, a Division of ONE Gas, Inc. (Kansas Gas Service); and Atmos Energy Corporation (Atmos Energy) (collectively Gas Utilities) filed a Joint Application requesting an Accounting Authority Order (AAO) to defer extraordinary costs and lost revenue, plus associated carrying costs, incurred as a result of the COVID-19 pandemic to a regulatory asset to be recovered in their next general rate cases.<sup>1</sup>

2. On July 9, 2020, the Commission issued its Order Approving Application for Accounting Authority Order. The Commission granted the Gas Utilities' requested AAO, subject

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<sup>1</sup> See Joint Application (Apr. 14, 2020).

to the recommendations contained in Commission Staff's (Staff) Report and Recommendation (R&R) and supplements to the R&R. The Commission ordered the Gas Utilities to file their monthly and quarterly reports no later than 15 days following the end of the applicable month or quarter.<sup>2</sup>

3. On July 16, 2020, the Gas Utilities filed a Motion for Clarification of Reporting Requirements. The Gas Utilities requested a clarification of or an amendment to paragraph 6e of the Order, which provided reporting deadlines of no later than 15 days following the end of the applicable month or quarter. The Gas Utilities requested to file the respective reports no later than 15 calendar days following the close of the books of account of the applicable month or quarter, but not to exceed 25 calendar days following the end of the applicable reporting periods. The Gas Utilities discussed this request with Staff; Staff did not object.<sup>3</sup>

4. On July 28, 2020, Atmos Energy filed a Motion for Additional Time.<sup>4</sup>

5. On July 31, 2020, Atmos Energy filed an Amended Motion to File Monthly Report Out of Time (Amended Motion).<sup>5</sup> Atmos Energy explains that it relied on the agreement with Staff to file its monthly report 15 calendar days after the close of its books of account, but no later than 25 calendar days after the end of the month.<sup>6</sup> According to this calculation, the deadline to file the monthly report was Saturday, July 25, 2020, making the actual deadline Monday, July 27, 2020.<sup>7</sup>

Atmos Energy attempted to file the request for additional time on July 27, 2020. Atmos Energy,

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<sup>2</sup> See Order Approving Application for Accounting Authority Order (Jul. 9, 2020).

<sup>3</sup> See Motion for Clarification of Reporting Requirements (Jul. 16, 2020).

<sup>4</sup> See Motion for Additional Time (Jul. 28, 2020). The Commission notes this Motion was filed in the 20-423 Docket because the 21-044 Docket was not yet open. This Order is filed in both 20-423 and 21-044 to address the request to file out-of-time.

<sup>5</sup> See Amended Motion to File Monthly Report Out of Time (Jul. 31, 2020).

<sup>6</sup> See *id.* at ¶¶ 2-3.

<sup>7</sup> See *id.* at ¶ 3; K.A.R. 82-1-217(a).

however, filed the request after 5:00 p.m. on July 27, 2020, resulting in a July 28, 2020 filing.<sup>8</sup> Atmos Energy filed the monthly report on July 28, 2020.<sup>9</sup>

6. K.A.R. 82-1-217(b) allows the Commission to accept a filing subsequent to the deadline when the “failure to act...was the result of excusable neglect.”

7. The Commission notes Atmos Energy did not address the requirements provided in K.A.R. 82-217(b). Although the information was not provided in the initial motion, Atmos Energy, in the Amended Motion identifies the filing as the monthly report and states it needed an additional day “to allow its controller’s office sufficient time to review what information in the report should be designated as confidential since it contained financial information that had not yet been released to the public.”<sup>10</sup>

8. The Commission finds the culmination of the following qualifies as excusable neglect for Atmos Energy to file its monthly report out of time:

- Atmos Energy and Staff reached an agreement where Atmos Energy would file the reports no later than 25 calendar days after the end of the applicable reporting period. Atmos Energy attempted to comply with this deadline, which was July 27, 2020.
- Atmos Energy attempted to file a request for additional time prior to the expiration of the July 27, 2020 deadline. The filing, however, occurred after 5:00 p.m. on July 27, 2020, which resulted in a motion to file the report out-of-time.

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<sup>8</sup> See Amended Motion, ¶ 3. Because the filing was made on July 28, 2020, the request for additional time became a request to file the monthly report out of time. See K.A.R. 82-1-217(b).

<sup>9</sup> See Docket No. 21-ATMG-044-CPL, Compliance Filing and Confidential Compliance Reports (Jul. 28, 2020).

<sup>10</sup> Amended Motion, ¶ 3.

- Atmos Energy closed its books on July 15, 2020, and had 10 calendar days to file the monthly report. Atmos Energy requested one additional day to allow sufficient time for the controller's office to review the report to identify which information should be designated as confidential. As this was the first compliance filing, an additional day was reasonable.

9. Because the Commission finds the culmination of factors established in paragraph 8 constitute excusable neglect here, Atmos Energy's Amended Motion to File Monthly Report Out of Time is granted.

**THEREFORE, THE COMMISSION ORDERS:**

A. Atmos Energy Corporation's Amended Motion to File Monthly Report Out of Time is granted and the Monthly Compliance Report filed on July 28, 2020, is accepted for filing.

**BY THE COMMISSION IT IS SO ORDERED.**

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 08/06/2020.



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Lynn M. Retz  
Executive Director

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**CERTIFICATE OF SERVICE**

20-GIMG-423-ACT

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

electronic service on 08/06/2020.

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/S/ DeeAnn Shupe  
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21-ATMG-044-CPL

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 08/06/2020.

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