

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

Before Commissioners: Thomas E. Wright, Chairman
 Michael C. Moffet
 Joseph F. Harkins

In the Matter of the Application of)
Atmos Energy for Approval of the)
Commission for Gas System Reliability)
Surcharge per K.S.A. 66-2001 through)
66-2004.)

10-ATMB-133-TAR
Docket No. ~~09-BHCG-886-TAR~~

**ORDER SETTING PROCEDURAL SCHEDULE AND
APPOINTING PREHEARING OFFICER**

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

Background

1. On August 14, 2009, applicant Atmos Energy Corporation (Atmos) filed its application in the above referenced docket. CURB petitioned for intervention on August 18, 2009; and an Order granting intervention is pending final action on an upcoming consent agenda.

Procedural Schedule

2. The parties have been working collaboratively without a formal procedural schedule. Advisory counsel reports that the parties met informally to discuss the proposed procedural schedule to meet deadlines contemplated.

3. CURB agreed that the parties can exchange all documents by e-mail, but asked that service of pleadings occur according to K.A.R. 82-1-216.

4. The Commission has reviewed the dates proposed to Advisory Counsel and agrees that the proposed procedural schedule is reasonable and conforms with the deadlines set forth in K.S.A. 2008 Supp. 66-2204. Therefore, the Commission sets the procedural schedule as follows:

Staff Report and Recommendation	October 13, 2009
Atmos and CURB Responses	October 23, 2009
Reply Comments by Staff to Atmos & CURB; and between Atmos & CURB. (No new issues.)	October 29, 2009
Prehearing Conference (1:30 p.m., Commission's Third Floor Hearing Room)	October 30, 2009
Oral Argument Hearing (if necessary) (8:30 a.m., Commission's First Floor Hearing Room)	November 4, 2009
Order Due	December 14, 2009 ¹

5. The prehearing conference will be held on **October 30, 2009, beginning at 1:30 p.m., in the Third Floor Hearing Room, at the Commission's Office, 1500 SW Arrowhead Road, Topeka, Kansas**, 785-271-3218. At the prehearing conference, this proceeding without further notice may be converted into a conference hearing or a summary proceeding for disposition of the matter as provided by KAPA. K.S.A. 77-516(c)(7). A one-half day hearing for oral argument, if necessary, will be held on **November 4, 2009, beginning at 8:30 a.m., in the First Floor Hearing Room, at the Commission's Office, 1500 SW Arrowhead Road, Topeka, Kansas**, 785-271-3218.

The Commissioners will preside. Any party who fails to attend or participate in the

¹ Atmos advised the parties and Advisory Counsel that it would accept December 14, 2009, as the 120th day under K.S.A. 66-2204 (a)(3).

hearing or in any other stage of this proceeding will be held in default under the Kansas Administrative Procedures Act, K.S.A. 2008 Supp. 77-518; K.S.A. 77-516(c)(8); K.S.A. 77-520. Parties will notify the Prehearing Officer if developments require a change in the procedural schedule or cancellation of the hearings.

Prehearing Officer

6. The Commission designates a prehearing officer to conduct any prehearing conferences that might be needed in this proceeding and to address any matters that are appropriately considered in a prehearing conference, including all items listed in the Kansas Administrative Procedure Act (KAPA) at K.S.A. 77-517(b). These items include, for example, conversion of the proceeding to another type; exploration of settlement possibilities; clarification of issues; rulings on identity and limitation of the number of witnesses; objections to proffers of evidence; determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form, and the extent to which telephone or other electronic means will be used as a substitute for proceedings in person; order of presentation of evidence and cross-examination; discovery orders and protective orders; and such other matters as will promote the orderly and prompt conduct of the hearing. The Commission designates Patti Petersen-Klein, Advisory Counsel, 1500 SW Arrowhead Road, Topeka, KS 66604-4027, telephone 785-271-3218, email address p.petersen-klein@kcc.ks.gov, to preside as Prehearing Officer in this proceeding. K.S.A. 2008 Supp. 77-514; K.S.A. 77-516; K.S.A. 2008 Supp. 77-551. The Commission, as it deems necessary, may designate other staff members to serve in this capacity.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. The exchange of documents shall occur via e-mail, but parties must still comply with K.A.R. 82-1-216 concerning service of pleadings.
- B. The procedural schedule and notice of hearing as outlined in ¶¶s 4 and 5 are hereby approved.
- C. The Commission appoints Patti Petersen-Klein to act as Prehearing Officer, as set forth above. E-mailed copies of filed reports and pleadings shall be sent to p.petersen-klein@kcc.ks.gov.
- D. A party has fifteen days, plus three days if service of this Order is by mail, from the date of this Order in which to petition the Commission for reconsideration of any matter decided herein.
- E. The Commission retains jurisdiction of the subject matter and the parties for the purpose of entering any further order it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chmn.; Moffet, Comm.; Harkins, Comm.

Dated: SEP 14 2009

ORDERED MAILED

SEP 14 2009

 EXECUTIVE
DIRECTOR

Susan K. Duffy
Executive Director

PPK: jnh