

**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) Docket No. 24-ATMG-574-TAR
Charge)

NOTICE OF FILING OF STAFF'S REPORT AND RECOMMENDATION

COMES NOW, the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), and files its Report and Recommendation regarding the Application of Atmos Energy Corporation (Atmos) for approval of a tariff change to rename the Commodity Charge in its tariffs to Delivery Charge. This change allows Atmos to discontinue charging sales taxes for the delivery of natural gas to the consumer's premise for end party use. With its Application, Atmos submitted a Private Letter Ruling (PLR) from the Kansas Department of Revenue (KDR) supporting its position and further stated that Kansas Gas Service had made a similar request to implement the sales tax exemption per K.S.A. 79-3602.

Staff recommends approval of Atmos's request to change the name of its Commodity Charge to Delivery charge to effectuate the sales tax savings that will be passed on to Atmos's ratepayers.

WHEREFORE, Staff submits its Report and Recommendation for Commission review and consideration and for such other relief as the Commission deems just and reasonable.

Respectfully submitted,
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**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Jaren Dolsky, Rate Analyst
Chad Unrein, Chief of Accounting and Financial Analysis
Justin Grady, Deputy Director of Utilities
Jeff McClanahan, Director of Utilities

DATE: May 8th, 2024

SUBJECT: Docket 24-ATMG-574-TAR: In the Matter of the Application of Atmos Energy Corporation for Approval to Rename the Commodity Charge in its Tariffs to Delivery Charge

EXECUTIVE SUMMARY:

Atmos Energy Corporation (Atmos) filed an Application requesting permission to rename the Commodity Charge in its tariffs to Delivery Charge. Staff recommends the Commission approve the charge name change. As discussed in the Atmos Application, this change in re-naming the Commodity Charge to the Delivery Charge allows Atmos to discontinue charging sales taxes for the delivery of natural gas to the consumer's premise for end party use. Atmos submitted a Private Letter Ruling (PLR) from the Kansas Department of Revenue (KDR) supporting its position and further stated that Kansas Gas Service had made a similar request to implement the sales tax exemption per K.S.A. 79-3602. Staff has reviewed the Application, the PLR from the KDR, and supporting tariffs and confers with the analysis presented by Atmos in requesting the change in nomenclature from the Commodity Charge to the Delivery Charge to allow the charge to more accurately describe the services covered by the charge and to qualify those charges on the bill for the exemption from state sales tax per K.S.A. 79-3602. Staff recommends the Commission approve Atmos's request, as described in its Application.

BACKGROUND:

On February 14, 2024, Atmos Energy Corporation, filed an Application seeking the Kansas Corporation Commission's (KCC or Commission) authorization 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 Corporation's customers for exemption from sales tax per K.S.A. 79-3602. In its Application, Atmos provided Staff with the KDR issued PLR 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.¹ 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 PLR is attached to Atmos's Application as Exhibit A.

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 in Atmos's Application as Exhibit B.² Finally, Atmos filed redlined changes to its tariffs to rename the "Commodity Charge" to Delivery Charge in Exhibit C, and with clean versions of the tariffs with name change included in Exhibit D.

ANALYSIS:

Staff has reviewed Atmos' Application and exhibits, and we contend that Atmos has provided adequate support for the requested change. The PLR provided in the application makes it clear that as long as the charge is separately stated as a delivery charge then it is exempt from sales tax. This is because the purpose of the charge is to collect costs for transmission, delivery, or transportation. Staff is in agreement with Atmos's analysis of the KDR's PLR and Atmos's decision to re-name its Commodity Charge to Delivery Charge to allow the service to more accurately describe its services and qualify for the exemption to State Sales Tax under K.S.A. 79-3602 that took effect last year. The benefit from the exemption in State Sales Tax for Atmos's services provided under the delivery charge will flow-through to Atmos's ratepayers.

RECOMMENDATION

Staff recommends the Commission approve Atmos's request to change the name of its Commodity Charge to Delivery Charge in order to effectuate the sales tax savings that will be passed on to Atmos's utility ratepayers.

¹ Atmos Energy Application, Feb. 14, 2024.

² On 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.

CERTIFICATE OF SERVICE

24-ATMG-574-TAR

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice of Filing was served via electronic service this 8th day of May, 2024, to the following:

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