

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

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

In the Matter of the Investigation into Atmos)
Energy Corporation Regarding the February)
2021 Winter Weather Events, as Contemplated) Docket No. 21-ATMG-333-GIG
by Docket No. 21-GIMX-303-MIS.)

ORDER GRANTING PETITION TO INTERVENE
OF THE OFFICE OF KANSAS ATTORNEY GENERAL

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 makes the following findings:

1. On February 15, 2021, pursuant to K.S.A. 77-536(a), the Commission issued an Emergency Order in Docket No. 21-GIMX-303-MIS (Docket 21-303), directing all jurisdictional natural gas and electric utilities to coordinate efforts and take all reasonably feasible, lawful, and appropriate actions to ensure adequate transportation of natural gas and electricity to interconnected, non-jurisdictional Kansas utilities.¹ Jurisdictional natural gas utilities were ordered to do everything necessary to ensure natural gas service continued to be provided to their customers in Kansas.² The Commission authorized every jurisdictional natural gas distribution utility that incurs extraordinary costs associated with ensuring their customers or the customers of interconnected Kansas utilities that are non-jurisdictional to the Commission continue to receive utility service during Winter Storm Uri to defer those costs to a regulatory asset account.³ The Commission mandated that once Winter Storm Uri ended, and after all costs have been

¹ Emergency Order, 21-GIMX-303-MIS, Feb. 15, 2021, ¶ 3.

² *Id.*

³ *Id.* ¶ 4.

accumulated and recorded, each jurisdictional utility is directed to file a compliance report in the 21-303 Docket detailing the extent of such costs incurred, and present a plan to minimize the financial impacts of this event on ratepayers over a reasonable time frame.⁴

2. On March 9, 2021, the Commission issued an Order Adopting Staff's Report and Recommendation to Open Company-Specific Investigations, which initiated this Docket.⁵

3. On July 19, 2021, the Office of Attorney General Derek Schmidt (AG) filed a Petition to Intervene, citing the Attorney General's statutory and common law authority to enforce: (1) the Kansas Consumer Protection Act (KCPA), K.S.A. 50-623, *et seq.* and to protect consumers from suppliers who commit deceptive and unconscionable acts and practices;⁶ (2) K.S.A. 50-6,106 (the unconscionable act of profiteering from a disaster);⁷ and (3) the Kansas False Claims Act, K.S.A. 75-7501, *et seq.*, which prohibits making a fraudulent claim upon the State government or any political subdivision of the State.⁸ The AG opened an ongoing investigation into natural gas pricing on February 19, 2021, to determine if a KCPA, KFCA, or other violation of law has occurred.⁹

4. To qualify for intervention, a petition must: (1) be in writing; (2) state facts demonstrating that the petitioner's legal rights, duties, privileges, and immunities, or other legal interests may be substantially affected by the proceeding, or that the petitioner qualifies as an intervenor under any provision of law; and (3) not impair the interest of justice and the orderly and prompt conduct of the proceedings.¹⁰ The Commission has broad discretion in deciding

⁴ *Id.* ¶ 5.

⁵ Order Adopting Staff's Report and Recommendation to Open Company-Specific Investigations; Order on Petitions to Intervene of Bluemark Energy, LLC and CURB; Protective and Discovery Order, 21-303 Docket, March 9, 2021, ¶ 10.

⁶ Petition to Intervene, July 19, 2021, ¶ 8.

⁷ *Id.*, ¶ 9.

⁸ *Id.*, ¶ 15.

⁹ *Id.*, ¶ 17.

¹⁰ K.S.A. 77-521(b); K.A.R. 82-1-225(b).

whether to grant intervention.¹¹ At any time during a proceeding, the Commission may impose limitations on an intervenor's participation.¹²

5. Based on the AG's broad investigatory and rule-making authority to protect the public from unscrupulous suppliers and responsibility to enforce the KCPA and act on complaints,¹³ as well as the AG's representation of the interests of the State and the public under the doctrine of *parens patriae*, with a duty to investigate all aspects of the Kansas natural gas system to determine whether the extreme costs for natural gas during the Winter Event were the result of profiteering from a disaster, including other deceptive and unconscionable conduct in violation of the KCPA,¹⁴ the Commission finds the AG has met the requirements of K.A.R. 82-1-225 and K.S.A. 77-521 and should be granted intervention in this Docket and added to the mailing list. Service of electronic notices, pleadings, communications, and correspondence should be delivered to counsel of record as follows.

Derek Schmidt
Kansas Attorney General
Office of the Kansas Attorney General
Consumer Protection Division
120 SW 10th Ave., 4th Floor
Topeka, Kansas 66612
Tel: 785-296-3751
Fax: 785-291-3699
Derek.Schmidt@ag.ks.gov

Melanie S. Jack, Assistant Attorney General
Office of Attorney General Derek Schmidt
Consumer Protection Division
120 SW 10th Avenue, 2nd Floor
Topeka, KS 66612
Melanie.Jack@ag.ks.gov

¹¹ K.S.A. 77-521; K.A.R. 82-1-225.

¹² K.S.A. 77-521(c).

¹³ *Id.*, ¶ 21.

¹⁴ *Id.*, ¶ 22.

Kimberley Davenport Megrail, Assistant Attorney General
Office of Attorney General Derek Schmidt
Consumer Protection Division
120 SW 10th Avenue, 2nd Floor
Topeka, KS 66612
Kim.Davenport@ag.ks.gov

THEREFORE, THE COMMISSION ORDERS:

- A. The AG's Petition to Intervene is granted.
- B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹⁵

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 07/27/2021



Lynn M. Retz
Executive Director

BGF

¹⁵ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

21-ATMG-333-GIG

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 07/27/2021.

JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 S HICKORY
PO BOX 17
OTTAWA, KS 66067
Fax: 785-242-1279
jflaherty@andersonbyrd.com

ATTN: GAS SERVICE CONTACT
ATMOS ENERGY CORPORATION
5420 LBJ FWY STE 1600 (75240)
P O BOX 650205
DALLAS, TX 75265-0205
jennifer.ries@atmosenergy.com

TODD E. LOVE, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
t.love@curb.kansas.gov

SHONDA RABB
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
s.rabb@curb.kansas.gov

MELANIE S. JACK, ASSISTANT ATTORNEY GENERAL
KANSAS ATTORNEY GENERAL
Consumer Protection Division
120 SW 10th Ave., 2nd Flr.
Topeka, KS 66612
melanie.jack@ag.ks.gov

SHELLY M BASS, SENIOR ATTORNEY
ATMOS ENERGY CORPORATION
5430 LBJ FREEWAY
1800 THREE LINCOLN CENTRE
DALLAS, TX 75240
shelly.bass@atmosenergy.com

JOSEPH R. ASTRAB, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
j.astrab@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.nickel@curb.kansas.gov

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.smith@curb.kansas.gov

KIMBERLEY DAVENPORT MEGRAIL, ASSISTANT
ATTORNEY GENERAL
KANSAS ATTORNEY GENERAL
Consumer Protection Division
120 SW 10th Ave., 2nd Flr.
Topeka, KS 66612
kim.davenport@ag.ks.gov

CERTIFICATE OF SERVICE

21-ATMG-333-GIG

DEREK SCHMIDT, KANSAS ATTORNEY GENERAL
KANSAS ATTORNEY GENERAL
Consumer Protection Division
120 SW 10th Ave., 4th Flr.
Topeka, KS 66612
derek.schmidt@ag.ks.gov

COLE BAILEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
c.bailey@kcc.ks.gov

BRIAN G. FEDOTIN, GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
b.fedotin@kcc.ks.gov

TERRI PEMBERTON, CHIEF LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
t.pemberton@kcc.ks.gov

/s/ DeeAnn Shupe

DeeAnn Shupe
