

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

Before Commissioners: Brian J. Moline, Chair
Robert E. Krehbiel
Michael C. Moffet

In the Matter of the Application of Atmos Energy for)
Approval of an Accounting Order to Permit Atmos)
Energy to Recover Amounts Necessary to Expend in)
Order to Establish and Maintain a Gas Ceiling Price for) Docket No.
all of the 2005-2006 Heating Season and for a Portion of) 05-ATMG-617-HED
the Budgeted Winter Volumes for the 2006-2007 Heating)
Season; and for Approval to Continue with its Use of its)
“Gas Hedge Program” Tariff.)

**ORDER GRANTING INTERVENTION
TO CITIZENS’ UTILITY RATEPAYER BOARD**

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”). Having examined its files and records, and being duly advised in the premises, the Commission finds as follows:

I. BACKGROUND

1. On January 28, 2005, Atmos Energy (Atmos), filed its Application seeking an order approving its request for an accounting order to permit Atmos to recover such amounts of its funds up to \$3.1 million as may be necessary to expend in order to establish and maintain a gas ceiling price for all of the 2005-2006 heating season and 50% of the budgeted winter volumes for the 2006-2007 heating season under the Gas Hedge Program and for approval to continue with its “Gas Hedge Program” tariff. In support of its Application, Atmos filed the direct testimony of Mr. F. Alan Chambers, its Hedging Administrator.

2. On January 31, 2005, Citizens’ Utility Ratepayer Board (CURB) filed with the Commission a Petition to Intervene seeking a Commission order granting CURB leave to intervene as a party in this matter.

3. In support of its Petition to Intervene, CURB states the following:

a) CURB is composed of five volunteer consumer advocate members and is statutorily authorized to represent the interests of Kansas residential and small commercial ratepayers in utility proceedings;

b) CURB's Consumer Counsel has been given the discretion to intervene and represent the interests of Kansas residential and small commercial ratepayers in any utility proceeding before the Commission under K.S.A. 66-1223 *et seq.*;

c) CURB is requesting permission to intervene in this docket to represent the interests of the residential and small commercial ratepayers of Kansas;

d) CURB states that the rates paid and the service received by those customers whom CURB represents will or may be affected by any Commission order or activity in this proceeding;

e) The representation of CURB's interests in this proceeding by existing parties is or may be inadequate; and

f) The residential and small commercial ratepayers whose interests CURB represents will or may be bound by any Commission order or activity in this proceeding and will or may be adversely affected thereby.

II. DISCUSSION

4. The general criteria governing intervention is set by statute and in the Commission's rules and regulations, specifically K.S.A. 77-521 and K.A.R. 82-1-225. These authorities provide the Commission considerable discretion regarding intervention, essentially allowing the Commission to grant intervention if it is determined that the request was made in the interest of justice and will not delay the orderly and prompt conduct of the proceeding.

Further, K.S.A. 77-521 and K.A.R. 82-1-225 provide that: a) the intervenor's participation may be limited to designated issues in which the intervenor has a particular interest; b) the intervenor's use of discovery, cross-examination and other procedures may be limited so as to promote the orderly and prompt conduct of the proceedings; and c) two or more intervenors may be required to combine their presentations of evidence and argument, cross-examination, discovery and other participation in the proceedings.

5. The Commission finds that Citizens' Utility Ratepayer Board, the agency statutorily authorized to represent the interests of residential and small commercial ratepayers in Kansas, properly filed its petition to intervene and states facts demonstrating that its legal interests may be substantially affected by this proceeding. Therefore, the Commission grants full intervention to CURB. CURB is reminded that the Commission may, at any time, limit their participation in this proceeding, including the use of discovery, cross-examination and other procedures so as to promote the orderly and prompt conduct of this proceeding.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The petition to intervene filed by Citizens' Utility Ratepayer Board is hereby granted pursuant to K.S.A. 77-521 and K.A.R. 82-1-225 as set forth in this Order.

(B) The Commission retains jurisdiction of the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

(C) Any party may file a petition for reconsideration of this Order within fifteen (15) days from the date of service of this Order. If service is by mail, service is complete upon mailing, and three (3) days shall be added to the above time frame.

BY THE COMMISSION IT IS SO ORDERED.

Moline, Chr.; Krehbiel, Com.; Moffet, Com.

Dated: FEB 02 2005

ORDER MAILED

FEB 02 2005



Susan K. Duffy Executive Director
Executive Director

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