

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

IN THE MATTER OF THE APPLICATION ]  
OF ATMOS ENERGY CORPORATION FOR ]  
THE RECOVERY OF QUALIFIED ] KCC DOCKET NO. 22-ATMG-538-TAR  
EXTRAORDINARY COSTS AND ISSUANCE ]  
OF A FINANCING ORDER. ]

TESTIMONY IN SUPPORT OF SETTLEMENT AGREEMENT

JOSH FRANTZ

ON BEHALF OF

THE CITIZENS' UTILITY RATEPAYER BOARD

SEPTEMBER 19, 2022

1           **I.     Intro**

2   **Q.     Please state your name, employer, and business address.**

3   A.     My name is Joshua (Josh) P. Frantz. I am employed by the Citizens' Utility Ratepayer  
4           Board ("CURB") as a Senior Regulatory Analyst. My business address is 1500 SW  
5           Arrowhead Road, Topeka, Kansas 66604.

6  
7   **Q.     Have you previously testified before the Commission in this docket?**

8   A.     Yes. I provided Direct Testimony in this docket on August 26, 2022. My Statement of  
9           Qualifications is presented in that testimony.

10

11           **II.    Summary of Testimony**

12   **Q.     What is the purpose of your testimony today?**

13   A.     In this docket, Atmos Energy Corporation ("Atmos" or "Company") seeks the Kansas  
14           Corporation Commission's ("KCC" or "Commission") approval of a Financing Order  
15           authorizing the issuance of securitized bonds to finance the Qualified Extraordinary Costs  
16           ("QECs") Atmos incurred during Winter Storm Uri in February 2021. My testimony  
17           supports the *Joint Motion to Approve Settlement Agreement* and the associated *Settlement*  
18           *Agreement* ("Agreement"), which includes the proposed Financing Order in Appendix A  
19           thereto, filed on September 15, 2022.

1 **Q. Please summarize your position.**

2 A. I believe the Agreement satisfies the Commission's established criteria for approval of  
3 unanimous settlement agreements: the Agreement is supported by substantial competent  
4 evidence, will result in just and reasonable charges, and is in the public interest. Therefore,  
5 I recommend that the Commission approve the Agreement.

6

7 **II. Background**

8 **Q. Please provide a brief background of this proceeding.**

9 A. This docket stems from Commission Orders in Docket Nos. 21-GIMX-303-GIV ("Docket  
10 21-303") and 21-ATMG-333-GIG ("Docket 21-333"). Filings in this docket address  
11 Atmos's recovery of QECs through the issuance of securitized bonds. The QECs were  
12 incurred due to Atmos's efforts to ensure natural gas utility services continued to be  
13 provided to its customers in Kansas during Winter Storm Uri in February 2021.

14 On September 14, 2021, in Docket 21-333, Atmos filed its *Plan to Minimize the*  
15 *Financial Effects of the 2021 Winter Weather Event* ("Financial Plan"). Atmos notified the  
16 Commission that, upon approval of its Financial Plan, it would seek authorization to issue  
17 securitized bonds to finance its QECs. After considerable discovery and settlement  
18 conferences, Atmos, KCC Staff, and CURB were able to agree to a unanimous Settlement  
19 Agreement ("21-333 Agreement"), which was filed on February 9, 2022, and approved by  
20 the Commission on March 24, 2022.

1           The 21-333 Agreement required Atmos to apply for a Financing Order seeking  
2           authorization to issue Securitized Utility Tariff Bonds to finance Atmos's prudently  
3           incurred QECs. Likewise, the 21-333 Agreement included several provisions that Atmos  
4           was required to incorporate into its securitization Application.

5           On May 25, 2022, Atmos filed its Application for Financing Order. Testimonies  
6           from Company witnesses Jason L. Schneider and Kathleen R. Ocanas were filed the  
7           following day.

8           On July 25, 2022, Schneider and Ocanas both filed revised Direct Testimonies  
9           incorporating information that came to light as a result of discovery and technical  
10          conferences, as well as updated Treasury information.<sup>1</sup> The primary intent of the changes  
11          was to more precisely measure the net present value ("NPV") for purposes of  
12          demonstrating that securitization is in the public interest.<sup>2</sup>

13          On August 26, 2022, Justin T. Grady filed Direct Testimony on behalf of KCC Staff  
14          and I filed Direct Testimony on behalf of CURB.

15          On September 9, 2022, Ms. Ocanas filed Rebuttal and Responsive Testimony on  
16          behalf of Atmos.

17          On September 13–14, 2022, Settlement conferences were held via Zoom. Attendees  
18          included representatives of Atmos; KCC Staff; KCC Staff's advisors Foulston Siefkin LLP  
19          and Ducera Partners, LLC ("Ducera"); and CURB.

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<sup>1</sup> Revised Direct Testimony of Jason L. Schneider, p. 1, July 25, 2022.

<sup>2</sup> Revised Direct Testimony of Jason L. Schneider, p. 1, July 25, 2022.

1           A unanimous settlement agreement between all parties was reached and filed on  
2           September 15, 2022. Atmos, KCC Staff, and CURB are the “Joint Movants” requesting  
3           approval of the Agreement. The Agreement includes a proposed Financing Order.  
4

5   **Q.   Please describe the key aspects of the Agreement and proposed Financing Order.**

6   A.   Key aspects of the Agreement and proposed Financing Order include:

- 7           ▪   Atmos Energy is authorized to recover an estimated \$118,514,030 in QECs through the  
8           issuance of securitized, customer-backed bonds, as authorized by the 2021 Utility  
9           Financing and Securitization Act. Of the \$118,514,030 in QECs, \$92,684,223  
10          represents the expected principal/issuance amount. The final amount shall be provided  
11          in the final Issuance Advice Letter.
- 12          ▪   It is not expected that the scheduled final maturity of the Securitized Bonds will exceed  
13          ten years. However, if a longer term is required to achieve the best possible credit rating  
14          and lowest resulting Securitized Utility Tariff Charges, such term may be modified to  
15          a maximum of twelve years.
- 16          ▪   The net present value ("NPV") benefit to Atmos Energy's customers associated with a  
17          10-year securitization is estimated to be \$8.5 million as compared to recovering the  
18          QECs using traditional ratemaking methods. The final NPV benefit shall be provided  
19          to the Commission in the final Issuance Advise Letter.
- 20          ▪   The Winter Event Securitized Cost Recovery Rider (“WESCR”) tariff submitted by  
21          Atmos Energy should be approved with the following clarification added to the tariff

1 so that it matches the Proposed Financing Order: the phrase "+Replenishments to  
2 Capital Subaccounts if Needed" added to the definition of the Revenue Requirement in  
3 the WESCR tariff.

- 4 ■ The settlement fee recommended by Atmos Energy to be charged to any sales customer  
5 that switches to transportation service during the term of the WESCR tariff is  
6 reasonable and should be approved by the Commission. The settlement fee shall be  
7 calculated as the NPV of the remaining customer obligations to pay for the WESCR,  
8 using a discount rate equal to the weighted average interest rate of the securitized  
9 bonds.
- 10 ■ The Joint Movants agree to the reconciliation process described by the Company in  
11 Ms. Ocanas' testimony, whereby the final amount of QECs is compared to the final  
12 amount of securitized bond issuance, and the difference is credited/charged to  
13 customers through the Purchased Gas Adjustment process. If the incremental cost to  
14 Atmos Energy to perform its servicing and administrative services under the Servicing  
15 Agreement and the Administration Agreement, respectively, is less than what the  
16 Company is paid for those services, then that difference in cost (the associated profit  
17 margin earned by the Company as servicer and administrator) shall be tracked by  
18 Atmos Energy and included in a regulatory liability account to be addressed in Atmos  
19 Energy's next general rate case following its current rate case filed in Docket No. 23-  
20 ATMG-359-RTS.

- 1           ▪ Joint Movants agree that pursuant to K.S.A. 66-1,241(e)(14), Atmos Energy shall be  
2           allowed to earn a return on its equity contribution to the Capital Sub Account equal to  
3           "the cost of capital authorized from time to time by the Commission in the public  
4           utility's rate proceedings," which is the Company's approved weighted average cost of  
5           capital ("WACC"), and which will be distributed upon receipt. Atmos Energy's current  
6           WACC is 8.396%. In accordance with the applicable provisions of the Indenture,  
7           investment earnings on the Capital Subaccount will be transferred to the Excess Funds  
8           Subaccount. On each payment date, the funds in such Subaccount will be taken into  
9           account in the Adjustment Mechanism within the WESCR tariff and will benefit Atmos  
10          Energy's customers.
- 11          ▪ The customer communication plan presented by the Company<sup>3</sup> to inform and educate  
12          Atmos Energy's customers about the purpose for, and the benefits of, the issuance of  
13          securitized bonds is a good start. The Joint Movants agree to work together to finalize  
14          the specifics relating to the customer education program.
- 15          ▪ The Commission should approve the Company's request to waive any of its Rules and  
16          Regulations in order to allow the payment of securitized bonds to take priority over the  
17          rest of the customer bill in the event of partial customer payment. This waiver is  
18          supportive of the highest bond ratings possible for the securitized bonds, and therefore  
19          a benefit to customers.

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<sup>3</sup> See Direct Testimony of Kathleen R. Ocanas, p. 40, May 26, 2022.

1           ▪ Provided that Kansas legislation has been enacted authorizing the Commission to  
2           approve a low-income relief (or similar) tariff, the Joint Movants will work with each  
3           other to determine whether, and to what extent, a generic investigation into the energy  
4           burden in Kansas could be conducted to benefit the Commission in its regulation of  
5           rates, including determining whether low-income rate relief is feasible and ways in  
6           which the same could be structured.

7

8           **III. Evaluation**

9           **Q. Does CURB support the Agreement?**

10          A. Yes, CURB supports the Agreement as a signatory. I believe there will be significant  
11          benefits for customers by securitizing Atmos's QECs rather than pursuing traditional  
12          financing methods for cost recovery. Therefore, I recommend the Commission approve the  
13          Agreement.

14

15          **Q. What criteria does the Commission generally consider when reviewing settlement**  
16          **agreements?**

17          A. Generally, the Commission will accept a settlement agreement if the following five criteria  
18          are met: 1) the agreement conforms with applicable law; 2) there was an opportunity for  
19          opposing parties to be heard on their reasons for opposition to the agreement; 3) the  
20          agreement is supported by substantial competent evidence; 4) the agreement results in just  
21          and reasonable rates or charges; and 5) the results of the agreement are in the public



1 interest.<sup>4</sup> However, the Commission typically evaluates unanimous settlement agreements  
2 on the basis of just the last three criteria.  
3

4 **Q. Is the Agreement supported by substantial and competent evidence?**

5 A. Yes, the Agreement is supported by substantial and competent evidence on the record. The  
6 record contains testimony from expert witnesses on behalf of Atmos, KCC Staff, and  
7 CURB supporting securitization and the terms of the Agreement. Additionally, for this  
8 docket, KCC Staff is advised with expertise from Ducera, a boutique investment bank.

9 KCC Staff and CURB performed independent reviews of the proposed Financing  
10 Order to ensure it conforms to the requirements of prior Commission orders and statutes.  
11

12 **Q. Will the Settlement Agreement result in just and reasonable charges?**

13 A. Yes, the Agreement will result in a just and reasonable WESCR charge.

14 First, it is important to note that, in Docket 21-333, the Commission found the  
15 QECs incurred by Atmos were prudently incurred and recoverable. What is under  
16 examination now is the appropriate methodology for recovery.

17 The methodology used to allocate the QECs between customer classes, as reflected  
18 in the proposed WESCR charges, reasonably estimates how the costs were incurred by  
19 Atmos to provide gas service to each customer class.

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<sup>4</sup> See *Order Approving Contested Settlement Agreement*, ¶11, Docket No. 08-ATMG-280-RTS, May 12, 2012.

1 All other things equal, CURB's preference would be for the QECs to be recovered  
2 using a volumetric charge instead of a fixed charge. CURB has consistently sought to  
3 minimize fixed charge levels in utility rate cases. In CURB's view, volumetric charges  
4 allow ratepayers more control over individual energy bill amounts than a fixed charge, and  
5 better incentivize personal conservation and weatherization efforts. However, CURB  
6 acknowledges that if the proposed structure of the WESCR charge is volumetric then  
7 Atmos would be significantly less likely to obtain a favorable bond rating which could add  
8 considerable interest amounts and substantially reduce net benefits to ratepayers.  
9 Therefore, in this circumstance, the fixed monthly WESCR charge and the periodic  
10 adjustment, or true-up changes to that charge, are reasonable because they will assist in the  
11 establishment of the highest possible bond rating for the securitized bonds and will result  
12 in the lowest overall cost to Atmos's customers. Furthermore, the Agreement recognizes  
13 that CURB does not acquiesce its position with respect to its arguments for low fixed  
14 charges in all other cases, including future rate cases. However, CURB is obliged to point  
15 out that the Board's approval of the Agreement was not unanimous in view of the  
16 volumetric recovery of QECs, albeit a majority of the Board did approve the Agreement.

17 The targeted bond term period is ten-years, with some flexibility to extend the term  
18 up to twelve years if necessary to obtain the highest rating. As I explained in my Direct  
19 Testimony, I believe a ten-year term will result in a reasonable monthly bill impact over a  
20 reasonable recovery period, so it is an appropriate target term period. A shorter period risks  
21 creating an unmanageable bill impact for many customers while a longer recovery period

1 comes with greater risk of subjecting future customers to charges they did not cause to be  
2 incurred. Having flexibility to extend the term, only if necessary, is a reassuring provision,  
3 knowing the bond should be as highly rated as possible.

4 The estimated monthly fixed WESCR charge for Residential customers is \$5.78 for  
5 a ten-year term.<sup>5</sup> Under traditional ratemaking (i.e., recovery of QECs at WACC over a  
6 five-year amortization period), the estimated monthly bill impact would be \$10.55.<sup>6</sup> To  
7 directly compare those two options, a NPV analysis was performed. The NPV benefit to  
8 Atmos's customers associated with a ten-year term securitization is estimated to be \$8.5  
9 million when compared to traditional ratemaking.

10 CURB supports the use of Securitized Utility Tariff Bonds and believes the overall  
11 benefits to customers provided by the securitization process will produce just and  
12 reasonable charges.

13  
14 **Q. Is the Agreement in the public interest?**

15 A. Yes, the Agreement is in the public interest because it will allow Atmos to recover its QECs  
16 in a manner that minimizes customer bill impacts compared to traditional ratemaking  
17 methods.

18 As already determined by the Commission in Docket 21-333, the QECs incurred  
19 by Atmos were prudently incurred and recoverable. Supporting its decision in 21-333, the

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<sup>5</sup> Rebuttal and Responsive Testimony of Kathleen R. Ocanas, p. 6 Rebuttal Table 2, Sep. 9, 2022.

<sup>6</sup> Rebuttal and Responsive Testimony of Kathleen R. Ocanas, p. 6 Rebuttal Table 3, Sep. 9, 2022.

1 Commission stated, "When extraordinary costs are unavoidable and necessary to benefit  
2 the public, it is in the public interest to allow recovery of such costs."<sup>7</sup>

3 Allowing recovery of these prudently incurred costs over an extended period  
4 through securitization strikes a fair balance in minimizing customer bill impacts and  
5 maintaining the utility's financial integrity. Utilizing securitization in this instance will  
6 provide net benefits to ratepayers coping with one of the largest weather-related financial  
7 disasters in recent memory.

8 Furthermore, CURB's concern for the least financially-flexible ratepayers has been  
9 addressed by certain provisions of the Agreement. CURB believes that the Agreement's  
10 language related to low-income rate design and energy burden research is an important step  
11 toward understanding and, hopefully, reducing energy burden in Kansas.

12  
13 **Q. What is your final recommendation?**

14 A. I support the Agreement and believe it satisfies the Commission's established criteria for  
15 approval of a unanimous settlement agreement. Therefore, I recommend the Commission  
16 approve the unanimous Agreement and associated Financing Order as proposed by the  
17 Joint Movants.

18  
19 **Q. Does this conclude your testimony?**

20 A. Yes, thank you.

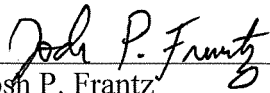
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<sup>7</sup> *Order Approving Unanimous Settlement Agreement on Atmos Energy Corporation's Financial Plan*, ¶14, Docket No. 21-ATMG-333-GIG, Mar. 24, 2022.

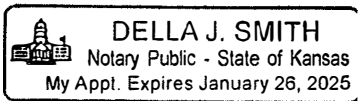
**VERIFICATION**

STATE OF KANSAS                    )  
                                              )  
COUNTY OF SHAWNEE            )        ss:

I, Josh P. Frantz, of lawful age and being first duly sworn upon my oath, state that I am a Senior Regulatory Analyst for the Citizens' Utility Ratepayer Board; that I have read and am familiar with the above and foregoing document and attest that the statements therein are true and correct to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Josh P. Frantz

SUBSCRIBED AND SWORN to before me this 19<sup>th</sup> day of September, 2022.



  
\_\_\_\_\_  
Notary Public

My Commission expires: 01-26-2025.

## CERTIFICATE OF SERVICE

22-ATMG-538-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was served by electronic service on this 19<sup>th</sup> day of September, 2022, to the following:

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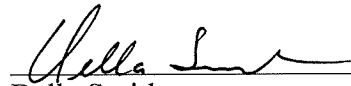
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