

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Application of Kansas Gas     )  
Service, a Division of ONE Gas, Inc., for an     )  
Extension of its Certificate of Convenience and     )  
Necessity to Provide Service as a Natural Gas     )  
Public Utility in an Additional Designated Area in     )  
Johnson County, Kansas.     )

Docket No. 19-KGSG-005-COC

**PROTEST**

Atmos Energy Corporation ("Atmos Energy") files the following protest to the application filed by Kansas Gas Service, a Division of ONE Gas, Inc., ("KGS") for an extension of its certificate of convenience and necessity to provide natural gas services in an area in Johnson County, Kansas currently certificated to Atmos Energy. This protest is being filed pursuant to K.A.R. 82-1-218(d) and (e) and applicable orders and policies of the Kansas Corporation Commission ("Commission") regarding the prohibition against dual certification of service territory and the long standing practice of the like-kind exchange of service territory between utilities in those circumstances where such exchange will promote the public interest. In support of its protest, Atmos Energy states as follows:

1. On July 6, 2018, KGS filed an application with the Commission seeking to extend its certificate of convenience and necessity to serve a new residential customer, who is currently located within the service territory certificated to Atmos Energy.

2. Prior to KGS filing its application, Atmos Energy notified KGS it would agree to exchange like-kind service territory so KGS could provide service to the new customer so as to satisfy the Commission's policy of prohibiting dually certificated service territory in non-rural areas of the state and in recognition of the long-standing practice among utilities to exchange like-kind service territory when it was more economical for one utility to serve a customer located in another utility's

service territory because of the location of existing utility facilities. Atmos Energy provided KGS several proposed alternative like-kind service territory exchanges. However, KGS was unwilling to agree to any exchange of like-kind service territory.

3. Atmos Energy protests KGS's application because it would violate the Commission's public policy that prohibits dually certificated service territory in non-rural areas of the state.<sup>1</sup> In addition, approval of KGS's application would result in a "chilling effect" on the long-standing practice among utilities to exchange like-kind service territory when it was more economical for one utility to serve a customer located in another utility's service territory.<sup>2</sup> A decision in this matter that failed to recognize that long standing practice among utilities would result in harming the public interest.

4. The Commission has adopted a public policy of prohibiting dually certificated service territory in non-rural areas of the state.<sup>3</sup> The basis and support for that public policy was outlined by the Commission Staff ("Staff") in its comments and recommendations filed in the Commission's general investigation that led to the elimination of dual certificated service territories in the city of Wichita, Kansas and surrounding areas and those comments and recommendations in support of the

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<sup>1</sup>*In the Matter of an Investigation Upon the Commission's Own Motion into Natural Gas Distribution Supplier Competition in the City of Wichita and Surrounding Areas Which are Dually Certificated to Kansas Gas Service Company and Peoples Natural Gas Company*, Docket No. 99-KGSG-233-GIG, Order on Kansas Gas Service Company's Petition for Reconsideration issued January 14, 2000, pages 1-2, paragraphs 3-4 (competition between natural gas distribution suppliers should not be permitted to compromise the public safety and dually certificated areas should be eliminated in favor of exclusive service territories).

<sup>2</sup>Docket Nos. 15-ATMG-444-COC, 15-BHCG-445-CCS, 15-BHCG-446-COC, 15-ATMG-449-CCS, Staff Report and Recommendation attached to Order issued June 11, 2015; Docket Nos. 05-KGSG-604-CCS, 05-KGSG-603-COC, 05-ATMG-604-COC, 04-ATMG-605-CCS, Staff Memorandum filed March 14, 2005, Order Granting filed March 14, 2005; Docket Nos. 08-ATMG-957-COC and 08-KGSG-958-COC, Staff Memorandum filed June 2, 2008; Docket Nos. 15-KGSG-572-COC, 15-ATMG-570-CCS, 15-ATMG-571-COC, 15-KGSG-573-CCS, Certificate Order filed August 11, 2015.

<sup>3</sup>*See*, Footnote 1.

Commission's policy are incorporated herein by reference in support of Atmos Energy's protest.<sup>4</sup> The Staff in its comments and recommendations summed up the policy as follows: "... the Commission's policy has been to issue single natural gas certificates. This is because the issuance of dual certificates tends to lead to economic waste, environmental disadvantages and safety concerns inherent in duplication of facilities and to disputes between natural gas suppliers."<sup>5</sup> KGS's application should be rejected because it is contrary to said public policy.

5. There is also a long standing practice among utilities to exchange like-kind service territory when it was more economical for one utility to serve a customer located in another utility's service territory. This practice is exhibited by the numerous certificate filings made by utilities that share common certificated service territory boundaries, including joint filings made in the past by Atmos Energy and KGS.<sup>6</sup> Such practice recognizes the significance of the certificated service territory, the Commission's policy to issue single natural gas certificates and the reasons outlined above for such a policy, and how the public interest is promoted when utilities can work together under the above-referenced practice to exchange like-kind territory in order to avoid disputes between natural gas suppliers and promote the public interest by providing natural gas service to customers who are located near the boundaries of the service territories. Approval of KGS's application over

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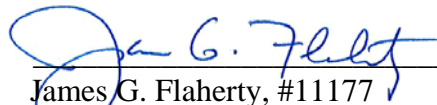
<sup>4</sup>Staff Comments on Joint Recommendation of Kansas Gas Service Company, a Division of ONEOK, Inc. and Peoples Natural Gas Company, a Division of UtiliCorp United, Inc. filed November 3, 1999, Docket No. 99-KGSG-233-GIG, pages 2-9, paragraphs 11-12.

<sup>5</sup>*Id.* at pages 2-3, paragraph 4.

<sup>6</sup>*See*, Footnote 2. *See*, the following dockets where utilities agreed to exchange territories to accommodate a utility to service a customer located in another utility's service territory because its facilities were closer to the customer: Docket Nos. 18-WHLE-201-COC, 18-LNSE-215-CCS, 18-LNSE-214-COC, 18-WHLE-203-CCS, Staff Report and Recommendation attached to Order issued December 19, 2017; Docket Nos. 14-KCPE-177-CCS, 14-KCPE-178-COC, 14-WSEE-213-COC, 14-WSEE-214-CCS, Staff Report and Recommendation attached to Order issued December 3, 2013; Docket Nos. 15-RHCE-521-COC, 15-RHCE-522-COC, 14-BLOE-523-COC, 15-BLOE-524-COC, Staff Report and Recommendation attached to Order issued June 18, 2015; Docket Nos. 14-NMME-492-COC, 14-WSEE-487-CCS, 14-NMME-493-CCS, 14-WSEE-486-COC, Staff Report and Recommendation attached to Order issued May 29, 2014.

the protest of Atmos Energy would effectively lessen regulatory support for such practice, increase disputes between natural gas suppliers, and cause harm to the public interest.

WHEREFORE, for the reasons set forth herein, Atmos Energy requests that KGS's application be denied and that the Commission either through mediation or order request that the two gas utilities exchange like-kind service territories to allow economical service to be provided to the new residential customer that is the subject matter of the application.



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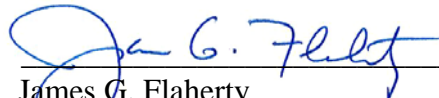
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**VERIFICATION**

STATE OF KANSAS, COUNTY OF FRANKLIN, ss:

James G. Flaherty, of lawful age, being first duly sworn on oath, deposes and says he is attorney for Atmos Energy Corporation above named; that he has read the above and foregoing Protest; and the statements contained therein are true.

  
James G. Flaherty

SUBSCRIBED AND SWORN to before me this 19<sup>th</sup> day of July, 2018.





Notary Public

Appointment/Commission Expires:

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was sent via U. S. Mail, postage prepaid, hand-delivery, or electronically, this 19<sup>th</sup> day of July, 2018, addressed to:

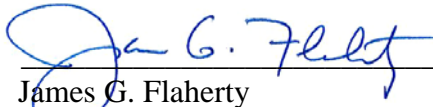
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