

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

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

In the Matter of the Application of Atmos ) Docket No. 21-ATMG-100-TAR  
Energy Corporation for Approval of a Credit to )  
Customers to Comply with House Bill 2585. )

**ORDER APPROVING APPLICATION OF ATMOS ENERGY CORPORATION**

Atmos Energy Corporation (Atmos Energy) seeks approval of a credit to customers to reflect the elimination of Kansas state income taxes from its revenue requirement in order to comply with Senate Substitute for House Bill No. 2585 (HB 2585). Commission Staff (Staff) and intervenor agree with Atmos Energy's proposal. For the following reasons, the Commission grants Atmos Energy's application:

**Background**

1. The Kansas Legislature passed Senate Substitute for House Bill No. 2585 (HB 2585), which became effective July 1, 2020. HB 2585 provides that regulated electric and natural gas utilities are exempt from paying Kansas state income tax for tax years on or after January 1, 2021.<sup>1</sup> HB 2585 requires the utilities to file an application for new retail rates when a change in state or federal law increases or decreases the income tax rates assessed on the utility and the over collection or under collection of income tax expense is equal to or exceeds 0.25% of the utility's base revenue level from the most recent rate case.<sup>2</sup>

2. On August 28, 2020, Atmos Energy Corporation (Atmos Energy), filed an application with the Commission seeking approval of a credit to customers to reflect the

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<sup>1</sup> HB 2585, Sec. 4(d)(2).

<sup>2</sup> HB 2585, Sec 3(b).

elimination of Kansas state income taxes from its revenue requirement in order to comply with HB 2585.<sup>3</sup> Atmos Energy proposes implementing the rate reduction for its customers by providing a credit using the utility's Tax Reform Credit Rider tariff that was established and approved by the Commission in Atmos Energy's most recent rate case.<sup>4</sup> The total impact on Atmos Energy's revenue requirement is a decrease of \$1,116,449.<sup>5</sup>

3. On September 3, 2020, the Citizens' Utility Ratepayer Board (CURB) filed a petition to intervene.<sup>6</sup> The Commission granted CURB's petition on September 17, 2020.<sup>7</sup>

4. On September 22, 2020, Staff filed its Report and Recommendation (R&R).<sup>8</sup> Staff recommends the Commission approve Atmos Energy's request to provide a Cost of Service Credit of \$1,116,449 to be included in the Tax Reform Credit tariff beginning in October 2020. Staff also recommends the Commission approve Atmos Energy's request to provide a credit on the customers' bills that reflects 54% of the tax savings as a fixed monthly amount shown on a separate line and 46% of the credit as a separate line based on volume of gas sales.<sup>9</sup>

5. On September 24, 2020, CURB filed a response to Staff's R&R. CURB supports Staff's recommendations and believes that using already existing mechanisms from the Tax Reform Credit tariff is appropriate.<sup>10</sup>

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<sup>3</sup> Application of Atmos Energy Corporation (Aug. 28, 2020).

<sup>4</sup> *See id.* Atmos Energy also filed an amended application, clarifying that it proposed effective date of the credit is October 1, 2020. *See Amended Application of Atmos Energy Corporation* (Sept. 4, 2020).

<sup>5</sup> Direct Testimony of Jared N. Geiger on Behalf of Atmos Energy Corporation, p. 4 (Aug. 28, 2020). *See also* Notice of Filing of Staff's Report and Recommendation, p. 1 (Sept. 22, 2020) (The credit is a 1.79% decrease to Atmos Energy's revenue requirement.).

<sup>6</sup> Petition to Intervene and Motion for Protective Order and Discovery Order (Sep. 3, 2020).

<sup>7</sup> Order Granting CURB Petition to Intervene and Motion for Protective and Discovery Order (Sept. 17, 2020).

<sup>8</sup> Notice of Filing of Staff's Report and Recommendation (Sept. 22, 2020).

<sup>9</sup> Staff makes additional recommendations that do not require Commission action. Staff makes recommendations regarding provisions in Atmos Energy's Tax Reform Credit tariff. The provisions in the tariff apply. Additionally, Staff makes recommendations regarding the accumulated deferred income tax balances, which are addressed in HB 2585, Sec. 3(f).

<sup>10</sup> CURB's Response to Staff's Report and Recommendation, ¶ 3 (Sept. 24, 2020) (The Commission notes that CURB provided a different amount as the Cost of Service Credit, but finds this is a typographical error.).

6. On September 24, 2020, Atmos Energy filed its response to Staff's R&R. Atmos Energy does not object to the recommendations. Atmos Energy further clarifies its request to begin providing its customers with the credit beginning October 1, 2020. Atmos Energy explains its fiscal year ends on September 30, 2020, and the Kansas income tax exemption in HB 2585 goes into effect for Atmos Energy beginning October 1, 2020, and not January 1, 2021.<sup>11</sup>

### **Analysis**

7. The Commission holds full power, authority, and jurisdiction to supervise and control Atmos Energy as natural gas public utility under K.S.A. 66-1,200.<sup>12</sup>

8. K.S.A. 66-1,202 provides:

Every natural gas public utility governed by this act shall be required to furnish reasonably efficient and sufficient service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such natural gas public utility, to establish just and reasonable rates, charges and exactions and to make just and reasonable rules, classifications and regulations. Every unjust or unreasonably discriminatory or unduly preferential rule, regulation, classification, rate, charge or exaction is prohibited, unlawful and void. The commission shall have the power, after notice and hearing in accordance with the provisions of the Kansas administrative procedure act, to require all natural gas public utilities governed by this act to establish and maintain just and reasonable rates when the same are reasonably necessary in order to maintain reasonably sufficient and efficient service from such natural gas public utilities.

9. Additionally, HB 2585, Sec. 3(b) provides:

When any change in state or federal law either increases or decreases the income tax rates assessed on a utility and results in an overcollection or undercollection of income tax expenses that is equal to or exceeds 0.25% of such utility's base revenue level approved by the state corporation commission in the utility's most recent general rate proceeding, such utility shall file an application for new retail rates reflecting the adjusted income taxation rates with the commission within 60 days of the enactment of such change in state or federal law. The utility shall either refund the tracked overcollected amounts to, or recover the tracked undercollected amounts

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<sup>11</sup> See Response to Staff Report and Recommendation (Sept. 24, 2020).

<sup>12</sup> K.S.A. 66-1,201.

from, such utility's retail customers in a manner approved by the commission.

10. Parties agree the amount of the estimated total credit is \$1,116,449, which reflects the elimination of Kansas state income taxes from Atmos Energy's revenue requirement and complies with HB 2585.<sup>13</sup> Parties further agree the Cost of Service Credit should be included in the Tax Reform Credit tariff beginning October 1, 2020 and going forward.<sup>14</sup> Atmos Energy provides an updated version of the Tax Reform Credit tariff including the Cost of Service Credit of \$1,116,449.<sup>15</sup>

11. Parties further agree that 54% of the Cost of Service Credit shall be a fixed amount on a separate line of the customer's monthly bill. The remaining 46% of the credit shall be shown on the customer's bill as a separate line based on volume of gas sales.<sup>16</sup> The 54% and 46% allocation was approved in Docket No. 18-GIMX-248-GIV (Docket 18-248), which also addressed a tax credit approved in response to the Tax Cuts and Jobs Act.<sup>17</sup>

12. The Commission concludes Staff's recommendation is reasonable and adopts Staff's recommendation to approve Atmos Energy's Cost of Service Credit of \$1,116,449, to reflect the elimination of Kansas state income taxes from its revenue requirement to comply with HB 2585.

13. The Commission further concludes it is reasonable to include the Cost of Service Credit of \$1,116,449 in the Tax Reform Credit tariff beginning October 1, 2020, and adopts Staff's recommendation.

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<sup>13</sup> See R&R, p. 3; Atmos Energy's Application; CURB's Response.

<sup>14</sup> See *Id.*

<sup>15</sup> Atmos Energy's Application, Exhibit A.

<sup>16</sup> See R&R, p. 3; Application and Geiger Testimony; CURB's Response, ¶ 3.

<sup>17</sup> See R&R, p. 3.

14. Finally, the Commission concludes Staff's recommendation regarding the 54% and 46% allocations approved in Docket 18-248 is reasonable and adopts Staff's recommendation.

**THEREFORE, THE COMMISSION ORDERS:**

A. As described above, Atmos Energy's Application is approved and the revised Tax Reform Credit tariff is adopted.

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).<sup>18</sup>

**BY THE COMMISSION IT IS SO ORDERED.**

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 10/01/2020.



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Lynn M. Retz  
Executive Director

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<sup>18</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**CERTIFICATE OF SERVICE**

21-ATMG-100-TAR

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 10/01/2020.

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/S/ DeeAnn Shupe

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