

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

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

**NOTICE OF FILING OF STAFF'S REPORT AND RECOMMENDATION**

The Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), submits its Notice of Filing of Staff's Report and Recommendation and states as follows:

Staff hereby files the attached Report and Recommendation dated September 21, 2020, recommending the Commission approve Atmos Energy's Cost of Service Credit to customers to reflect elimination of Kansas state income taxes from its revenue requirement to comply with House Bill 2585.

WHEREFORE, Staff requests the Commission consider its Report and Recommendation, and for any other further relief as the Commission deems just and reasonable.

Respectfully submitted,

*s/Cole Bailey*

---

Cole Bailey  
Litigation Counsel  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, Kansas 66604  
(785) 271-3186  
Email: [c.bailey@kcc.ks.gov](mailto:c.bailey@kcc.ks.gov)

Susan K. Duffy, Chair  
Dwight D. Keen, Commissioner  
Andrew J. French, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Susan Duffy  
Commissioner Dwight D. Keen  
Commissioner Andrew J. French

**FROM:** Bill Baldry, Senior Auditor  
Chad Unrein, Senior Managing Auditor  
Justin Grady, Chief of Revenue Requirements, Cost of Service and Finance

**DATE:** September 21, 2020

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

**EXECUTIVE SUMMARY:**

Staff requests Commission approval of Atmos Energy's (Atmos or Company) Cost of Service Credit of \$1,116,449 to customers to reflect elimination of Kansas state income taxes from its revenue requirement to comply with House Bill 2585 (HB 2585). The credit would be in effect from October 2020 until the tax savings are reflected in base rates following a final Order in a general rate case filing. A fixed monthly amount on the customer's bill would reflect 54% of the tax savings, and a separate line, based on volume, would reflect the remaining 46% of the credit.

**BACKGROUND:**

The Kansas legislature passed House Bill No. 2585 that became effective July 1, 2020. HB 2585 made regulated electric and natural gas utilities 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 either increases or decreases the income tax rates assessed on the utility and results in an over collection or under collection of income tax expense that is equal to or exceeds 0.25% of the utility's base revenue level from the utility's most recent general rate case.<sup>2</sup>

<sup>1</sup> House Bill No. 2585, Section 4(d)(2).

<sup>2</sup> House Bill No. 2585, Section 3(b).

On August 28, 2020, Atmos Energy filed an Application with the Commission requesting approval of a credit totaling \$1,116,449 (a 1.79% decrease to the Company's revenue requirement) to be provided to its customers to reflect the elimination of Kansas state income taxes in compliance with House Bill 2585. Jared Geiger also provided direct testimony on behalf of Atmos.

The elimination of state income taxes will require a refund to its customers through a credit on their monthly bills until the Company's next general rate case.

Atmos allocated the rate reduction (due to the exemption from Kansas income taxes) to customer classes based on the revenues from each class compared to total revenues shown in the Company's last general rate case, Docket No. 19-ATMG-525-RTS.<sup>3</sup>

**ANALYSIS:**

On August 28, 2020, Atmos Energy filed an Application with the Commission requesting approval to establish a Cost of Service Credit for its customers. The credit would reflect the elimination of Kansas state income taxes from the Company's revenue requirement in compliance with House Bill 2585.

**Impact of Exempting State Income Taxes on Atmos' Revenue Requirement**

Atmos' last rate case included a provision for state income taxes in calculating the Company's revenue requirement. House Bill 2585 eliminates state income taxes for regulated utilities resulting in a tax credit of \$1,116,449 for Atmos Energy, which is a 1.79% reduction in Atmos' revenue requirement. House Bill No. 2585 requires a utility to file an Application when a change in state or federal law either increases or decreases income tax rates that results in an over collection or under collection of income tax expense that is equal to or exceeds 0.25% of the utility's base revenue approved by the Commission. Since the exemption of state income tax resulted in a 1.79% decrease, Atmos was required to file an Application for new retail rates that reflect the adjusted income taxation rates. Without an adjustment, Atmos's revenue requirement would not reflect the state income tax exemption resulting in an over-recovery from its customers. To prevent the over-recovery, Atmos proposes to reduce rates by providing a credit each month to its customers using the Company's Tax Reform Credit Rider tariff that was established and approved by the Commission in Atmos Energy's 19-ATMG-525-RTS rate case as a way to reduce customer rates until the elimination of the state income tax can be incorporated into rates in the Company's next rate case.

**Excess Accumulated Deferred Income Taxes**

The change in the Kansas state income tax rate for regulated utilities will also result in excess accumulated deferred income tax balances (ADIT). Atmos received money over the years from its customers to pay for tax liabilities that would come due sometime in the future. Now that the state income tax rate has been eliminated, the ADIT balances will not come due and need to be refunded to Atmos' customers. Atmos is proposing these deferred income tax balances remain unamortized on Atmos' books until new retail rates take effect in the Company's next general rate case.<sup>4</sup>

---

<sup>3</sup> Jared Geiger Testimony, Schedule JNG – 2.

<sup>4</sup> House Bill No. 2585, Section 3(f).

Additionally, the appropriate amortization period of the accumulated deferred income taxes will be determined and the amortization of these amounts will be reflected in the rate case.

### **Allocating the Rate Reduction to the Revenue Requirement Among Customer Classes**

The Company is proposing to allocate the credit among Atmos' customers based on the percentage of revenue each customer class generates in comparison to the other customer classes. Atmos is also proposing to allocate 54% of the credit due to a reduction in state income taxes (Cost of Service Credit) as a fixed amount shown on a separate line on the customer's monthly bill. The remaining 46% of the credit would be a volumetric credit shown as a separate line on the customer's bill. This is the same weighting Atmos proposed for the fixed and volumetric components of the tax credit approved in response to Tax Cuts and Jobs Act (TCJA).<sup>5</sup>

The Order in Docket No. 18-GIMX-248-GIV (18-248) included a fixed monthly bill credit shown as a separate line on the customer's bill. This credit was due to the savings from a reduction in the federal income tax rate included in the TCJA. The Order approved allocating 54% of the tax savings as a fixed separate line bill credit on the customer's monthly bill. The remaining 46% of the tax savings was shown on the customer's bill as a separate line based on volume. Since the Commission approved the 54% / 46% allocation tax credit in the 18-248 Docket, Staff believes it is appropriate to use the same allocation percentages in this Docket.

The proposed Cost of Service Credit would go into effect in October 2020 and would remain in effect until the tax savings are reflected in the next general rate case filing.

### **True-Up Provision**

Atmos has a Tax Reform Credit tariff that was established in the Company's last rate case. The Tax Reform Credit tariff has a true-up provision. The Company is requesting that the Cost of Service Credit created due to the exemption of state income taxes be included in the Tax Reform Credit beginning in October 2020 and going forward. The true-up provision in the tariff would allow the Company to reconcile the difference between the actual Cost of Service Credit provided to its customers and the calculated credit that reduced the revenue requirement due to the elimination of state income taxes.

Atmos' Tax Reform Credit tariff also has a provision in it that would require the Cost of Service Credit be reset to zero after the Company's next rate case. Staff believes it is appropriate to reset the credit to zero at the end of the next rate case because the elimination of Kansas income taxes would be reflected in the new base rates.

Atmos witness Jared Geiger included two schedules with his Direct Testimony. Staff requested additional information to support the amounts shown in the two schedules. As the Company prepared its response, the Company discovered some errors in the state and federal income tax amounts in Schedule JNG-1. Atmos corrected the errors, and Staff agrees with the revised income tax amounts. The corrections increased state income taxes and decreased federal income taxes by the same amount, so there was no impact on the tax credit amount of \$1,116,449 that will be

---

<sup>5</sup> Docket No. 18-GIMX-248-GIV, Order Granting Joint Motion for Approval of Atmos' Tax Reform Plan, ¶17.

credited to Kansas customers. Staff has verified all amounts and calculations on Schedule JNG-2 which was attached to Jared Geiger's Direct Testimony.

**RECOMMENDATION:**

Staff recommends a credit of \$1,116,449 be applied to Atmos' customers that relates to the cost savings due to the exemption of Kansas state income taxes beginning in October 2020. Staff recommends that Atmos allocate the credit among its customers based on the percentage of revenue each class generates compared to the total revenue amount for the Company. Staff recommends approval of Atmos Energy's request to provide a credit on 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. In regard to Atmos filing, Staff recommends the following:

1. The Cost of Service Credit of \$1,116,449 be included in the Tax Reform Credit tariff beginning in October 2020 and going forward.
2. Atmos perform a reconciliation to true-up the difference between estimated and actual amounts as provided in the Tax Reform Credit tariff.
3. The accumulated deferred income tax balances remain unamortized on Atmos' books until new retail rates take effect in the Company's next general rate case.
4. An appropriate amortization period of the accumulated deferred income taxes balance be determined and the amortization of these amounts be reflected in the Company's next general rate case.
5. The provision in the Tax Reform Credit tariff requiring the credit be reset to zero also apply to Atmos' Cost of Service Credit.

## CERTIFICATE OF SERVICE

21-ATMG-100-TAR

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice of Filing of Staff's Report and Recommendation was served electronically this 22nd day of September, 2020, to the following:

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

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

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

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

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

LAUREN LAUSHMAN, OFFICE OF GENERAL COUNSEL  
ATTORNEY  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3354  
l.laushman@kcc.ks.gov

  
\_\_\_\_\_

**CERTIFICATE OF SERVICE**

21-ATMG-100-TAR

Vicki Jacobsen