

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

In the Matter of the Application of Atmos )  
Energy to Amend Its Demand Charge Savings ) Docket No. 19-ATMG-486-TAR  
Provision in Its Purchased Gas Adjustment )  
(PGA) Tariff )

**CURB'S RESPONSE TO STAFF'S REPORT AND RECOMMENDATION**

COMES NOW, the Citizens' Utility Ratepayer Board (CURB) and submits its response to the Report and Recommendation filed by the Staff of the Kansas Corporation Commission (Staff and Commission, respectively) in the above-captioned docket on September 30, 2019.

**I. Background**

1. On May 24, 2019, Atmos Energy (Atmos) filed its application to amend its Demand Charge Saving provision contained in its Purchased Gas Adjustment (PGA) tariff.<sup>1</sup> Specifically, Atmos is requesting Commission approval to amend the tariff to apply the Demand Charge Savings provision to all future interstate and intrastate pipeline capacity agreements negotiated by Atmos for its Kansas customers, including any new agreement with Southern Star Central Pipeline (Southern Star).<sup>2</sup>

2. On May, 28, 2019, CURB filed its Petition to Intervene and Motion for Protective Order and Discovery Order.<sup>3</sup> The Commission granted intervention to CURB on June 11, 2019.

3. The initial Demand Charge Savings provision stemmed from a Stipulated Settlement Agreement in Docket No. 14-ATMG-230-TAR (14-230 Docket), in which CURB was a participant and signatory.<sup>4</sup> During that docket, Atmos negotiated a discount and reduction in the

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<sup>1</sup> See Application for Atmos Energy (Application).

<sup>2</sup> Application at pg. 2, ¶5.

<sup>3</sup> See CURB's Petition to Intervene and Motion for Protective Order and Discovery Order.

<sup>4</sup> See Commission's Order approving the Unanimous Stipulation and Agreement filed on April 7, 2015.

demand charges it would pay under its five-year transportation agreement with Southern Star.<sup>5</sup> Initially, CURB was opposed to the proposed savings sharing split of 50/50 associated with the request to amend Atmos's PGA tariff in effect at the time.<sup>6</sup> After a long procedural history, the parties reached an agreement that settled the sharing of savings to 78/22 in favor of the ratepayers.<sup>7</sup> The settlement agreement in the 14-230 docket was the product of thorough litigation and negotiation.

4. On September 30, 2019, Staff filed its Report and Recommendation (Staff R&R or R&R).<sup>8</sup> Staff recommends that “the Commission approve Atmos' Application to amend the current Demand Charge Savings Provision to apply to all future interstate and intrastate pipeline capacity agreements; remove the requirement that Atmos file separate Applications before the Commission for approval of future pipeline capacity agreements; and maintain the current approved sharing ratio with Atmos' customers retaining 78% of the savings and Atmos' shareholders retaining 22% of the savings for all future pipeline capacity agreements.”<sup>9</sup>

5. Staff highlighted several benefits associated with extending the Demand Charge Savings to all future interstate and intrastate pipeline capacity contracts. As highlighted in the 14-230 docket, the Demand Charge Savings provision is a useful tool to signal to gas pipeline companies that the Commission is using regulatory measures to incentivize Atmos to obtain more favorable fuel procurement methods in the face of rising costs.<sup>10</sup> The end goal being increased efficiency in negotiating and more favorable pipeline capacity agreements that reduces costs to customers. Likewise, the provision allows Atmos to save money and resources devoted to

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<sup>5</sup> 14-230 Docket Order Approving Unanimous Stipulation and Agreement, Exhibit A pg. 3, ¶11 (Apr. 7, 2015).

<sup>6</sup> See Direct Testimony of CURB witness Stacey Harden 14-ATMG-230-TAR (Jul. 18, 2014).

<sup>7</sup> 14-230 Unanimous Stipulation and Agreement, pg. 3, ¶12.

<sup>8</sup> Notice of Filing of Staff Report and Recommendation (Sept. 30, 2019).

<sup>9</sup> Staff R&R at pg. 7.

<sup>10</sup> Staff R&R at pg. 6.

developing alternative fuel procurement methods while trying to avoid paying a pipeline's maximum transportation rate.<sup>11</sup>

## **II. CURB's Response**

6. CURB analyzed this application from the perspective of residential and small commercial ratepayers. In the current case, Atmos asks the Commission to amend its PGA tariff to extend its Demand Charge Savings clause to apply to future agreements with other pipeline capacity agreements with the same 78/22 split of savings between ratepayers and the company as in the 14-230 case.

7. CURB has reviewed the Report and Recommendation that Staff has submitted, along with the accompanying data, in this case. CURB has determined that Staff's recommendations are reasonable and therefore is in agreement with Staff's review and the recommendation to approve the amendment to the tariff and to remove the stipulation that requires Atmos to file separate applications with the Commission if it wishes to share in any savings relating to any other agreement or transaction.<sup>12</sup> The proposal preserves the same sharing percentage of savings that CURB advocated for and ultimately agreed to in the 14-230 docket. When reviewing the data provided by Atmos, it appears that the 78/22 savings split is well within the range of savings sharing that Atmos has established with other states. CURB recognizes the importance of providing Atmos the tools necessary to remain competitive when seeking new pipeline capacity agreements while providing the best deal for customers.

WHEREFORE, CURB respectfully requests the Commission adopt Staff's Report and Recommendation and for such other relief as the Commission deems just and proper.

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<sup>11</sup> Staff R&R at pg. 5.

<sup>12</sup> 14-230 Stipulated Settlement Agreement, ¶13.

Respectfully submitted,



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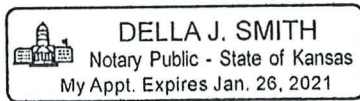

**VERIFICATION**

STATE OF KANSAS                    )  
  )  
COUNTY OF SHAWNEE            )        ss:

I, Joseph R. Astrab, of lawful age and being first duly sworn upon my oath, state that I am an attorney 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 under the pains and penalties of perjury.

  
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Joseph R. Astrab

SUBSCRIBED AND SWORN to before me this 8<sup>th</sup> day of October, 2019.

   
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Notary Public

My Commission expires: 01-26-2021.

**CERTIFICATE OF SERVICE**

19-ATMG-486-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 8<sup>th</sup> day of October, 2019, to the following:

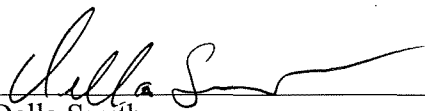
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