

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Atmos)
Energy to Amend its Purchase Gas Adjustment)
(PGA) Schedule to Add a Demand Charge) Docket No. 14-ATMG-230-TAR
Savings and Pipeline Bypass Savings)
Component to the PGA)

SURREBUTTAL/REPLY TESTIMONY OF
STACEY HARDEN
ON BEHALF OF
THE CITIZENS' UTILITY RATEPAYER BOARD

AUGUST 26, 2014

1 **Q. Please state your name and business address.**

2 A. My name is Stacey Harden. My business address is 1500 SW Arrowhead Road, Topeka,
3 Kansas, 66604.

4

5 **Q. Are you the same Stacey Harden who filed direct testimony in this Docket on July**
6 **18, 2014?**

7 A. Yes.

8

9 **Q. What is the purpose of your surrebuttal testimony?**

10 A. The purpose of my surrebuttal testimony is to respond to issues raised in Mr. Kenneth
11 Malter's rebuttal testimony and to reply to Dr. Robert Glass's surrebuttal testimony.

12

13 **Q. What issues are you responding to that were raised in Mr. Malter's rebuttal**
14 **testimony?**

15 A. I am responding to the following issues:

16 (1) That Atmos's proposed PGA amendments are similar to the capacity release
17 mechanism;

18 (2) that 25% of savings achieved through the proposed PGA is an acceptable amount
19 to be returned to ratepayers;

20 (3) that Atmos's proposed PGA is simple and the calculation of savings is not
21 complicated;

22 (4) that Atmos's proposed PGA does not benefit shareholders at the expense of
23 ratepayers; and

1 (5) that savings achieved from the proposed PGA can be reasonable estimated.

2
3 **Q. Mr. Malter compares Atmos's proposed PGA with the capacity release factor that**
4 **was approved by the Commission in 1995. Is this a fair comparison?**

5 A. No it is not. It is true that the capacity release factor allows the utility to earn incentives
6 through the re-sale of firm capacity that it purchases to meet the winter peak needs of its
7 customers. But an important distinction from Atmos's proposal is that the entirety of the
8 existing PGA is still a cost based mechanism, with a simple alteration, that generates
9 revenues, not "savings". The capacity release mechanism allows the Company to sell
10 excess capacity that may otherwise go unused in non-peak times, in order to generate
11 revenues that are then shared between the Company and ratepayers. Ratepayers benefit
12 under capacity release because the Company is able to sell this firm capacity during non-
13 peak times and then share in the revenues earned from these sales, which decreases the
14 PGA rate customers pay.

15 While the capacity release mechanism changes one line in an otherwise cost based
16 PGA, Atmos's current proposal changes every line in the PGA. The capacity needed and
17 the costs charged to customers through the PGA will be based on what would have been
18 paid at a presumed level of use and at a presumed level of rates. Letting Atmos keep the
19 difference between this PGA which is based entirely upon presumptions, and the actual
20 cost Atmos pays cannot, and should not be equated to the capacity release mechanism.

21 One changes a line in the PGA, the other changes the entirety of the PGA mechanism and
22 34 years of Commission policy.

23

1 **Q. Mr. Malter testifies that Atmos is agreeable to Staff's recommendation that 25% of**
2 **savings be returned to ratepayers through the PGA. Does he provide any rationale**
3 **for why 25% of savings should be returned to ratepayers?**

4 A. No, he does not. At no point in the direct testimonies of Ms. Rowe and Mr. Malter,
5 or in the rebuttal testimony of Mr. Malter, does Atmos attempt to explain why the
6 proposed sharing of savings is appropriate or necessary. Atmos's original application
7 requested to share the savings 50/50 between the Company and ratepayers. Atmos's
8 amended application proposed that the Company retain 100% of the savings generated—
9 and ratepayers would receive nothing. Now, in rebuttal testimony, Atmos is
10 recommending that the Company be allowed to retain 75% of the savings generated
11 through the amended PGA, while ratepayers would only receive 25% of potential
12 savings. Rather than providing an explanation or analysis of which of these
13 recommendations is actually the appropriate level of sharing, it appears as if Atmos is
14 simply throwing out random suggestions, hoping one will stick.

15

16 **Q. Mr. Malter testifies that the proposed PGA, which includes four different categories**
17 **of savings, is not complicated. Do you agree with Mr. Malter's testimony?**

18 A. No, I do not. Both Mr. Malter and Staff witness Dr. Glass attempt to suggest that it will
19 not be complicated to establish the benchmark used by Atmos to establish the PGA rate.
20 However, Mr. Malter and Dr. Glass misinterpret my testimony that the mechanism would
21 be complicated. I agree with Mr. Malter and Dr. Glass that adding up the numbers and
22 reconciling them at the end of the year is not complicated. What *is* complicated is
23 determining the benchmark itself. For example, what if the demand for natural gas

1 throughout Atmos's territory decreases 10%? What will ratepayers pay through the PGA?
2 Will they pay the cost of gas that would have been based upon historical contracts--which
3 includes 10% more capacity than the company currently needs--or will it be adjusted to
4 reflect current demand? Another example: what if Atmos constructs a new pipeline that
5 will allow Atmos to access gas at a lower cost from other suppliers? Which rate will be
6 used in the benchmark of the PGA: the Southern Star tariff rate or the rate from the new
7 pipeline? Adding up numbers isn't the complicated part of Atmos's proposal. The
8 complicated part is a policy decision: determining which numbers should and should not
9 be included in the PGA.

10
11 **Q. Mr. Malter testifies that Atmos's proposal to amend the PGA will not benefit**
12 **shareholders at the expense of ratepayers. Do you agree with this testimony?**

13 A. No, I do not. Mr. Malter suggests that Atmos's customers will benefit because they "will
14 not have to pay more than what they otherwise would have paid ..."¹ Mr. Malter's
15 opinion that customers benefit by paying a maximum rate, even if the service could be
16 provided at a lower cost, seems to completely ignore the utility's obligation to provide
17 service at the lowest cost possible. Further, because Atmos's proposal would require
18 customers to pay a maximum cost of gas, while Atmos can secure gas at a lower cost and
19 retain 75% of the difference, shareholders are, in fact, benefiting at the expense of
20 ratepayers.

21
22

¹ Rebuttal Testimony of Kenneth M. Malter, at page 7.

1 **Q. Mr. Malter testifies that savings gained through the proposed PGA can be**
2 **reasonably estimated. Do you agree with this statement?**

3 A. No, I do not.
4

5 **Q. Did Mr. Malter provide an estimate of the savings that may be gained through the**
6 **amended PGA?**

7 A. No, he did not.
8

9 **Q. Why didn't Mr. Malter provide an estimate of these savings, if they can be**
10 **reasonably estimated?**

11 A. Simply because they can't be estimated. According to Mr. Malter's testimony, "specific
12 savings can't be determined until that work is completed..."² The work Mr. Malter is
13 referring to is the exploration, negotiation and contracting for alternative transportation
14 that is priced below the FERC tariff demand rates. There is no guarantee that Atmos will
15 be able to negotiate and contract with alternate transportation that would result in savings.
16 And even if Atmos were to be able to negotiate and contract transportation rates lower
17 than the current FERC tariff rate, there is no estimate of what that rate may be. Therefore,
18 any attempt to estimate savings is based upon assumptions that are based upon
19 assumptions. They cannot be reasonably estimated or determined.
20

21 **Q. To what issues raised in Dr. Glass's surrebuttal testimony are you responding? ?**

22 A. Dr. Glass recommends that all savings achieved through the proposed PGA that are not

² Rebuttal Testimony of Kenneth M. Malter, at page 8.

1 used for qualified projects be returned to ratepayers. While I do not support the approval
2 of Atmos's proposed PGA, if the Commission were to approve an amended PGA, I
3 would support Dr. Glass's recommendation to return all remaining unspent funds to
4 ratepayers if qualified projects are not approved by the Commission.

5 However, I do not agree with Dr. Glass's alternative recommendation that if the
6 Commission decides to allow Atmos to retain a portion of the savings, even without the
7 approval of any qualified projects, that Atmos be allowed to retain 1/3 of savings, while
8 returning the remaining 2/3 to ratepayers. If Dr. Glass's alternative recommendation is
9 approved, then Atmos would be allowed to retain 25% of all savings achieved through
10 the amended PGA without the approval or completion of even one single qualified
11 project.

12
13 **Q. Do you have any final comments regarding Dr. Glass's surrebuttal testimony?**

14 **A.** Yes. When discussing his alternative recommendation that Atmos be allowed to retain
15 one third of remaining unspent funds, Dr. Glass states that "by returning one third of the
16 unspent funds to Atmos, Staff believe that there would still be sufficient incentive for
17 Atmos to find infrastructure projects to invest in."³ Dr. Glass admits that if the company
18 is allowed to retain just one third of unspent funds – which is effectively 25% of all
19 savings achieved – it would be "sufficient incentive" for Atmos to find infrastructure
20 projects to invest in. Obviously this is contradictory to Staff's previous recommendation
21 that the Company needs to retain 75% of all savings in order to invest in infrastructure
22 projects.

³ Surrebuttal Testimony of Dr. Robert Glass, at page 2.

1 As I testified above, there seems to be no rhyme or reason as to what level of
2 savings is actually necessary in order for Atmos to complete certain infrastructure
3 projects. First, Atmos suggested that it would retain 50% of all savings for infrastructure
4 projects. Then at the request of Staff, Atmos suggested that it would need to retain 100%
5 of all savings for infrastructure projects. Then Staff testified that Atmos should retain
6 75% of all savings for the use of infrastructure projects. Now, Dr. Glass testifies that
7 Staff believes that if Atmos can retain 25% of all savings that it will have sufficient
8 incentive to invest in infrastructure projects. Based upon Dr. Glass's statement, I do not
9 understand how Staff can recommend the Company retain 75% of all savings, when only
10 25% is sufficient.

11
12 **Q. Do you still recommend the Commission deny Atmos's application to amend the**
13 **PGA?**

14 **A. Yes.**

15
16 **Q. Does this conclude your surrebuttal and reply testimony?**

17 **A. Yes.**

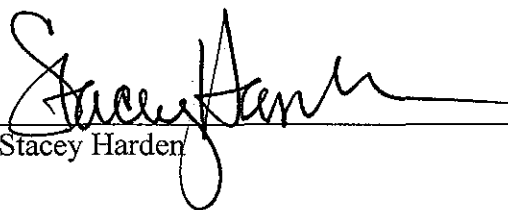
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19

VERIFICATION

STATE OF KANSAS)
COUNTY OF SHAWNEE) ss:

I, Stacey Harden, of lawful age and being first duly sworn upon my oath, state that I am a 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.

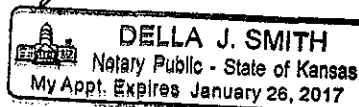


Stacey Harden

SUBSCRIBED AND SWORN to before me this 26th day of August, 2014.



Notary Public



My Commission expires: 01-26-2017.

CERTIFICATE OF SERVICE

14-ATMG-230-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 26th day of August, 2014, to the following:

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