

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  ATMOS ENERGY CORPORATION	DOCKET NO. WRU-08-2-222
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**ORDER GRANTING WAIVER**

(Issued February 18, 2008)

On February 11, 2008, Atmos Energy Corporation (Atmos) filed with the Utilities Board (Board) a request for a waiver of the March 1, 2008, filing deadline in 199 IAC 35.12(2) for the annual filing of energy efficiency cost recovery factors. The energy efficiency cost recovery factors reflect the energy efficiency costs proposed to be recovered in rates by Atmos for the subsequent 12-month period. Atmos requests that the deadline be extended to April 1, 2008. The filing has been identified as Docket No. WRU-08-2-222.

In support of the waiver request, Atmos states that compliance with the March 1, 2008, deadline would require Atmos to estimate winter recovery amounts for this filing and would require a true-up of those amounts in next year's filing. Atmos indicates the effort and expense of the estimate and true-up would be an undue hardship and the delay in filing would have little adverse effect on Iowa customers. Atmos proposes to leave the current energy efficiency recovery factors in place until the new factors are approved.

Atmos states that granting the waiver would not prejudice the substantial legal rights of any person and the provisions of 199 IAC 35.12(2) are not specifically mandated by statute or other provision of law. Atmos states that substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed by subrule 35.12(2) since Atmos will make the required filing by April 1, 2008, and current energy efficiency factors will remain in place.

Board rule 199 IAC 1.3 establishes four criteria that must be met by clear and convincing evidence for the Board to grant a waiver. The criteria are: (1) the application of the rule would pose an undue hardship on the person for whom the waiver is requested, (2) the waiver would not prejudice the substantial legal rights of any person, (3) the provisions of the rule are not specifically mandated by statute or another provision of law, and (4) substantial equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the rule.

The Board finds that Atmos has met the four criteria as required by rule 1.3. Requiring Atmos to make the filing on March 1, 2008, would require Atmos to estimate the energy efficiency recovery factors and then true-up the factors in the next filing. The short delay in the filing to April 1, 2008, will have little effect on Iowa customers or Atmos operations, will not adversely affect the legal rights of any person, and will apparently increase the accuracy of the filing. The March 1 filing date is not mandated by statute or other provision of law and substantially equal

protection of public health, safety, and welfare will be afforded by the April 1, 2008, filing. The Board will grant the waiver as requested.

**IT IS THEREFORE ORDERED:**

1. The waiver request filed by Atmos Energy Corporation on February 1, 2008, is granted.
2. Atmos Energy Corporation shall file the annual energy efficiency cost recovery factors required by 199 IAC 35.12(2) on or before April 1, 2008.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 18<sup>th</sup> day of February, 2008.