

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ATMOS ENERGY CORPORATION	DOCKET NOS. WRU-08-37-222 PGA-08-46
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**ORDER DENYING WAIVER REQUEST AND APPROVING
ANNUAL PURCHASED GAS ADJUSTMENT RECONCILIATION FILING**

(Issued November 24, 2008)

On October 2, 2008, Atmos Energy Corporation (Atmos) filed with the Utilities Board (Board) its annual reconciliation of purchased gas adjustment (PGA) costs for the 12-month period ending August 31, 2008, in accordance with 199 IAC 19.10(7). On October 15, 2008, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a conditional objection to the filing. On October 20, 2008, the Board docketed the annual reconciliation filing to allow Consumer Advocate additional time to complete its review.

On November 12, 2008, Consumer Advocate withdrew its conditional objection to the annual reconciliation filing in Docket No. PGA-08-46. Consumer Advocate stated that it had completed its review and analysis and had no objections to the annual reconciliation.

The annual reconciliation filing in Docket No. PGA-08-46 shows that Atmos overcollected \$303,082.35 from customers for the period ending August 31, 2008. The overcollection consists of \$278,814 from the firm customer class and \$24,268

from the interruptible customer class. The overcollection is 7.43 percent of Atmos' annual cost of purchased gas for the period. The refund for an average residential customer is \$46.

On October 28, 2008, Atmos filed a request for waiver of the requirements in 199 IAC 19.10(7) that it refund by bill credit or check an overcollection in excess of 3 percent of annual cost of purchased gas. Atmos proposes to include the refund in the calculation of the monthly PGA factor. Since the overcollection for the period ending August 31, 2008, is in excess of 3 percent, Atmos will be required to refund the overcollection by bill credit or check if the waiver is not granted.

Atmos states that it would be an undue hardship to make the refund by check or bill credit because compliance would result in significant operational expense. Atmos suggests that calculating and implementing individual refunds through its billing system within the one-month period between the filing of the reconciliation and the time Atmos is obligated to begin the refunds would require a considerable amount of manual work at both the corporate level and local Iowa operational level.

Atmos states that: 1) the waiver would not prejudice the substantial legal rights of any person; 2) making the refund through the monthly PGA factor would meet the intent of subrule 19.10(7); 3) the refund provisions in subrule 19.10(7) are not specifically mandated by statute or other provision of law; and 4) substantially equal protection of public health, safety, and welfare will be afforded through utilization of the PGA to make the refund. Atmos suggests that making the refund

through the monthly PGA factor will mitigate the cost of energy throughout the upcoming PGA period and would provide a longer term benefit than a one-time bill credit or check.

To grant a waiver of a Board rule, the Board must find that there is clear and convincing evidence that the four criteria in 199 IAC 1.3 are met. Those four 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 subject to the waiver are not specifically mandated by statute or another provision of law, and 4) substantially equal protection of health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.

The Board has considered the Atmos waiver request and finds that it does not meet the four criteria in rule 1.3 and will therefore be denied. Additional information provided by Atmos shows that the cost of issuing checks to all customers would be approximately \$61,500 and the cost of making the refund by bill credit would be \$14,178. The information provided by Atmos shows that the bill credit for active customers would cost \$300 while the issuance of checks to 900 inactive customers would cost the remaining \$13,878. If the waiver were granted, the cost to Atmos would be minimal since it would not have to issue a check to inactive customers.

Although it is understood that the PGA process for overcollections and undercollections from previous years will usually result in recovery from or refund to a

somewhat different set of customers in each class, given the size of the overcollection and the large number of inactive customers, the Board does not consider it an undue hardship to make the refund by bill credit and check in order to more accurately refund the money. Refunds should be returned to the customers who were overcharged where possible and the costs of making that refund are not significant when compared to the size of the refund. The Board does not consider it reasonable to exclude the inactive customers from receiving a refund of \$46 in order to save these amounts for Atmos.

In addition, under Board refund rules, Atmos will not be required to issue checks if the refund amount is less than \$10 (which may occur depending on when a particular customer became inactive). Further, some of the inactive customers may still be Atmos customers at a different address and Atmos should be able to make those refunds by bill credit to those customers. These factors may tend to reduce the projected cost of the refund. Finally, the Board considers it more reasonable to make the refund to each customer during the winter heating season to offset the customer's bill during one of the coldest months rather than spread the refund throughout the PGA period.

Since Consumer Advocate has withdrawn its conditional objection to the annual reconciliation filing and the filing appears to substantially comply with Board rules, the Board will approve the annual reconciliation. Atmos can then make the refunds in either the December 2008, January 2009, or February 2009 billing cycle.

The Board will require Atmos to update the interest calculation on the overcollection depending on which billing cycle it chooses to make the refund. Atmos will then include information about the refund in its 2009 annual reconciliation.

IT IS THEREFORE ORDERED:

1. The waiver request filed by Atmos Energy Corporation on October 28, 2008, is denied.
2. The annual purchased gas adjustment reconciliation for the period ending August 31, 2008, filed on October 2, 2008, by Atmos Energy Corporation is approved.
3. Atmos Energy Corporation shall file an updated overcollection calculation depending the billing cycle in which it chooses to make the refund.

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 24th day of November, 2008.