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Kansas Corporation Commission

By Susan K. Duff

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

Before Commissioners: Brian J. Moline, Chair
Robert E. Krehbiel
Michael C. Moffet

In the Matter of the Joint Application of)
Atmos Energy Corporation, Aquila, Inc. d/b/a)
Aquila Networks-KGO, and Kansas Gas Service,)
a Division of ONEOK, Inc., for Approval to) Docket No. 05-ATMG-643-GIG
Recover The Gas Cost Portion of the)
Uncollectible Accounts Through Their)
Purchased Gas Adjustment ("PGA") or Cost of)
Gas Rider ("COGR") Tariffs.)

ORDER APPROVING JOINT APPLICATION

I. BACKGROUND

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows.

1. On February 1, 2005, Atmos Energy Corporation (Atmos), Aquila, Inc., d/b/a Aquila Networks-KGO (Aquila), and Kansas Gas Service, a Division of ONEOK, Inc. (KGS), collectively referred to herein as "Joint Applicants", filed their Joint Application pursuant to K.S.A. 66-117 seeking an order from the Commission allowing Joint Applicants to recover the gas cost portion of their uncollectible accounts through their respective Purchased Gas Adjustment (PGA) or Cost of Gas Rider (COGR) tariffs. In support of their Joint Application, Joint Applicants filed the direct testimony of Atmos' James W. Bartling, Manager Public Affairs for Kansas operations; Aquila's Margaret A. McGill, Regulatory Manager; and KGS's Glenda R. Cantrell, Manager of Customer Service, and Darrell D. Bledsoe, Manager II Rates and Regulatory Compliance Department

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Exhibit No. 3

Case No(s) 6-2005-081

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Missouri Public
Service Commission

2. On February 8, 2005, Citizens' Utility Ratepayer Board (CURB) filed a Petition to Intervene seeking a Commission order granting CURB leave to intervene as a party in this matter. On February 9, 2005, the Commission granted CURB's Petition to Intervene pursuant to K.S.A. 77-521 and K.A.R. 82-1-225.

3. On February 9, 2005, the Commission, pursuant to K.S.A. 66-117, entered its Suspension Order suspending implementation of the methods and procedures for recovery of the gas cost portion of uncollectible accounts through the PGA/COGR recovery mechanism proposed in the Joint Application for a period of two hundred forty (240) days from the date of filing the Joint Application, February 1, 2005, until September 29, 2005, subject to the further order or orders of the Commission.

4. On May 24, 2005, Staff filed its Report and Recommendation recommending approval of the Joint Application, subject to conditions. In support of its recommendation for Commission approval of the Joint Application, Staff incorporated as Attachment 1 to its Report and Recommendation the Memorandum of Kyle Clem, Managing Auditor, dated May 17, 2005 (Staff Memorandum).

5. On June 6, 2005, Joint Applicants filed their Response to Staff's Report and Recommendation concurring with Staff's recommendation and acknowledging acceptance of the ten (10) conditions proposed by Staff in its Memorandum.

6. On June 24, 2005, CURB filed its Motion to File Comments Out of Time, and Comments on Application and the Staff Report and Recommendation on Application (Motion). In support of its Motion, CURB states that it is the only party offering any critical comment or alternative suggestion to the proposal in the Joint Application, that CURB's comments are filed

only two days out of time, and that the interest of justice and the rendering of a timely decision in this matter will not be hindered by granting CURB's Motion.

II. DISCUSSION

7. The Commission will first address CURB's Motion requesting to file comments out of time. Pursuant to K.A.R. 82-1-217(b), the Commission finds that there is good cause shown for granting CURB's Motion to file comments out of time. There is no objection to CURB's Motion and no party will be prejudiced by the Commission granting the Motion. CURB's comments will be accepted and given due consideration in the course of this proceeding.

8. The genesis of the Joint Application, as well as CURB's opposition to it, lies within the Commission's Order issued April 19, 1977 in Docket No. 106,850-U (the "PGA Order"). With respect to natural gas utilities, the Commission's Order of December 24, 1975 opening Docket No. 106,850-U, including the PGA Order that followed, clearly stated that the general investigation was for the purpose of "...[E]stablishing a general policy regarding the recovery by gas utilities of the increased costs of natural gas purchased by such utilities..." PGA Order at ¶1. Clauses in existence at the time lacked uniformity and the level of detail of periodic reporting was insufficient for effective review by the Commission and Staff. PGA Order at ¶16. CURB's comments encapsulate the course of events spanning nearly 2 ½ years precipitated by increasing natural gas prices requiring frequent rate cases and ending with the PGA Order establishing a standardized process whereby Kansas gas utilities have for 27 years, passed purchased gas costs directly to consumers outside of a rate case. CURB Comments at ¶6. The clear intent of the PGA Order has always been to allow gas public utilities to collect all of their gas costs. There is no dispute among Joint Applicants, Staff and CURB concerning the

underlying intent of the PGA Order that "...these orders were intended to permit utilities to recover 100% of their gas costs." CURB Comments at ¶12. What is in dispute is whether or not the costs at issue here constitute gas costs eligible for collection through the PGA mechanism as advocated by Joint Applicants or whether these costs constitute uncollectible costs recoverable only through base rates established in an appropriate rate case as advocated by CURB.

9. Joint Applicants state that there are two components to their rates: (1) gas costs that are recovered through the PGA or COGR "gas cost portion"; and (2) all other costs "non-gas portion". Within the non-gas portion is an allowance for uncollectible accounts which, in turn, includes a gas cost component. It is this gas cost component within the allowance for uncollectibles that Joint Applicants seek to remove and collect through the PGA/COGR in the same manner that all other gas costs are collected. Application at ¶4. On the other hand, CURB argues that uncollectible costs are simply that, uncollectibles, with no distinct and separable gas cost component. CURB Comments at ¶4. Staff maintains that the gas component of the allowance for uncollectible accounts is determinable and collecting it through the PGA/COGR comports with the intent of the PGA Order. Staff Memorandum at page 3.

10. Through its COGR, KGS tracks the cost of gas purchased and the cost of gas billed. The company does not track the amounts paid by customers. To the extent a bill is not paid, it is eventually charged off and treated as a bad debt, with no distinction being made between that portion of the bill representing margin and the remainder representing the cost of gas. Bledsoe Direct at page 3. However, KGS' customer information system does maintain the identity of the various customer bill components, including cost of gas, thereby making it possible to quantify the gas cost component of uncollectibles. Bledsoe Direct at page 3. Atmos' accounting system also has the ability to track and report the individual components of each

customer account written off as uncollectible. Aquila is currently making revisions to its billing system and accounting procedures which will permit Aquila to track bad debt components. Response of Joint Applicants at ¶7. Thus, Joint Applicants can determine and account for the gas cost component of uncollectibles separately.

11. Notwithstanding the Commission's enumeration of several possible disadvantages of implementing a variable energy adjustment clause, the Commission, nevertheless, decided in Docket No. 106,850-U that both the utilities and the consumers benefit from a properly designed energy adjustment clause. Among other advantages stated in support of implementing an energy adjustment clause, the Commission reasoned that:

- (c) Since energy costs are largely outside the control of the utility they ultimately must be passed through to the consumer, and an appropriately designed clause, with proper safeguards, is the most efficient method to accomplish this pass-through. PGA Order at ¶20.

Joint Applicants contend that since it has not been the practice of the Commission to use the PGA/COGR recovery mechanism for the recovery of uncollectible gas costs, but instead, to include such costs in base rates, the Commission's current practice results in either under-collection or over-collection of these costs because they cannot be estimated with complete accuracy. Consequently, Joint Applicants seek a change in Commission practice which will eliminate the gas cost portion included in uncollectible accounts shifting that portion of gas costs to collection under the Joint Applicants' PGA/COGR mechanisms. Joint Application at ¶s 4 and 5. Until each of the Joint Applicants' next rate case only that portion of bad debt related gas costs not included in base rates would be recoverable through the PGA/COGR. Thereafter, all bad debt-related gas costs would be recovered through the PGA/COGR along with all other gas costs and reconciled with the annual Actual Cost Adjustment (ACA) filing. Joint Application at ¶7.

CURB argues that Joint Applicant's proposal to recover uncollectible bill costs through the PGA mechanism is inconsistent with the Commission's intent established over a period of nearly thirty years regarding what costs are appropriate to pass through under the PGA mechanism. CURB Comments at ¶12. On the other hand, Staff views Joint Applicants' proposal to be wholly within the intent of the PGA Order wherein the Order states with respect to the variable adjustment clause that:

The primary purpose of any such clause is to pass through to the consumer an increase or decrease in the cost of energy, while avoiding the costly and time-consuming process of a formal hearing to consider the general revision of all rates...The energy cost adjustment must apply to only variable costs whose fluctuations are largely outside the control of the utility. PGA Order at ¶20.

Staff maintains that the Joint Application proposes collection of a cost (natural gas) that is "largely outside the control of the utility", and a function of the cost of energy. Consequently, Staff concludes the gas cost portion of uncollectible accounts should be included in the PGA/COGR mechanism. Staff Memorandum at page 3. Joint Applicants cite high natural gas prices and correspondingly higher uncollectibles as principal motivators in seeking the relief requested in the Joint Application. Joint Application at ¶9. It is undisputed that uncollectible bills increase with increasing natural gas prices.

12. In its comments, CURB suggests that under Joint Applicants' proposal, there is no incentive for Joint Applicants to maintain aggressive collection policies, since each utility would be guaranteed dollar-for-dollar recovery through the PGA or COGR mechanism of the gas portion of uncollectible costs. CURB Comments at ¶22. Staff disagrees stating that Joint Applicants still have the margin or non-gas costs portion included in their base rates, which accounts for more than a fourth of the total uncollectible amounts. Therefore, Joint Applicants would continue to have a strong incentive to pursue collection of uncollectible amounts.

Additionally, Staff contends that appropriate reporting by the utilities can counter the concern regarding a continued strong collection effort of the non-gas cost portion of the uncollectible accounts. Staff Memorandum at page 2.

13. The verified Joint Application and supporting direct testimony, as well as CURB's comments filed in opposition to the Joint Application, is both extensive and informative. Staff's Memorandum, while supporting the Joint Application and recommending Commission approval, recognizes that Joint Applicants' proposal injects an additional level of complexity to Joint Applicants' current PGA/COGR requiring additional tracking and reporting. Staff is in general agreement with KGS's accounting approach and indicates that Aquila and Atmos should be required to use a similar accounting approach, which both companies have agreed to do. For the pass-through treatment of uncollectible cost through the PGA/COGR, Staff believes it is critically important, and should be a condition of approval, that the utilities are able to track the cost of gas and margin components of a bill that has been written off. If a utility cannot track the components of accounts written off prior to collection through the PGA/COGR, then Staff recommends that the utility not be allowed the pass-through treatment sought in the Joint Application. Staff Memorandum at page 5. In addition, Staff has recommended the Commission approve Joint Applicants' proposal subject to the following requirements:

- a. That Joint Applicants be required to use their filed bad debt level in the last rate case and assume that 71% of that amount is the gas cost portion embedded in current rates.
- b. That in the event less than 100% of prior write off is collected, Joint Applicants be required to prorate collection in the proportion of gas cost and margin to total account
- c. That uncollectible amounts included in the annual ACA computation only include PGA/COGR customer accounts. No transportation or other non-PGA/COGR accounts should be included.

- d. That uncollectible amounts included in the annual ACA computation not contain interest or collection fees or charges.
- e. That Joint Applicants have the ability through their respective billing and accounting systems to separately account for, track, and report the individual components (cost or gas and margin) of each customer account written off as uncollectible.
- f. That Joint Applicants be required to file a detailed reporting, including account and sub-account numbers, of the accounting process utilized in tracking the uncollectible gas costs through the PGA/COGR.
- g. That Joint Applicants be required to file with the Commission an initial report summarizing each company's policy and procedures for recovering uncollectible accounts. All key terms in the report must be clearly defined, such as status, age, and collectibility of an account and the delinquent bill process must be clearly defined.
- h. That Joint Applicants be required to notify the Commission any time their policy and procedures for recovering uncollectible accounts changes. Notice should be given at least 30 days in advance of the changes.
- i. That Joint Applicants be required to file a report highlighting any changes in policy and procedures regarding its collection of uncollectible accounts.
- j. That Joint Applicants be required to file monthly reports indicating number of uncollectible accounts, uncollected expense, uncollected margin, uncollected gas cost, uncollected taxes, subsequent collected gas costs, and subsequent collected margin. The report should be filed electronically in Excel format. The monthly reports should be filed with the Audit Section of the Commission to be included with annual gas cost adjustment reconciliation filing (annual PGA/COGR filing). Staff Memorandum at page 5.

Joint Applicants have agreed to accept all of the foregoing conditions recommended by Staff.

Response of Joint Applicants at ¶3.

14. Staff views the current practice of embedding the bad debt expense, including that portion related to the cost of gas, as being sub-optimal for the Joint Applicants and their customers. Consequently, the companies are requesting that the Commission allow them to utilize the PGA/COGR mechanism to recover the cost of gas portion of uncollectible accounts in

a more timely manner. According to Staff, the question is not whether the expense is recoverable, but rather, how the expense is recovered. Thus, Staff views Joint Applicants' request as one of policy regarding how the cost is recovered, either through base rates, the current process, or through the PGA/COGR mechanism, as proposed by Joint Applicants. Staff Memorandum at page 2.

III. FINDINGS AND CONCLUSIONS

15. Joint Applicants are individual utility companies providing natural gas local distribution service to over 850,000 customers in the State of Kansas pursuant to certificates of authority granted by the Commission. The Joint Application affects the cost of gas as allowed under the companies' monthly PGA/COGR; therefore, the Commission, pursuant to K.S.A. 66-104, K.S.A. 66-117, K.S.A. 66-131, and K.S.A. 66-1,200, *et seq.* has jurisdiction over Joint Applicants and the subject matter herein.

16. The Commission finds that pursuant to K.A.R. 82-1-217(b) there is good cause shown for granting CURB's Motion to file comments out of time and it will be granted.

17. The PGA Order has for nearly thirty years served the interests of both the utilities and their customers. Although the PGA Order could not anticipate every circumstance that might arise in the context of natural gas sales by a utility to its customers, its general intent and purpose remains clear, i.e., establishment of a general policy regarding recovery of the increased costs of natural gas purchased by the utilities. Correspondingly, the PGA clause adopted and incorporated in the PGA Order was "...designed with the objective of allowing cost recovery or return to occur in the same period during which changes in prices paid for gas occur." PGA Order at ¶32. Thus, the PGA order permits utilities to timely recover their gas costs. Joint Applicants presently collect a portion of their uncollectible gas costs included in uncollectible

accounts through base rates, while all other gas costs are passed through their respective PGA/COGR. Confronted with high gas prices, the same circumstance precipitating the PGA Order, and correspondingly higher levels of uncollectible accounts, Joint Applicants now seek to recover all of their natural gas costs through their respective PGA/COGR tariffs. CURB contends that from a ratepayer perspective, uncollectible costs cannot be segmented into gas costs and margin. Joint Applicants and Staff disagree and demonstrate that within uncollectibles, the gas cost portion is both identifiable and quantifiable. We agree with Joint Applicants and Staff that such costs so determined may be passed through the utilities' respective PGA/COGR tariffs in the same manner as all other gas costs in accordance with the PGA Order. Collection through the PGA/COGR will ensure a more timely recovery of the utility's gas costs while avoiding a costly rate increase proceeding. Further, it will eliminate the over or under-collection of gas costs attributable to uncollectibles associated with existing practice. We agree with Staff that in both the pre and post-rate case phases of collecting the gas cost portion of uncollectibles through the PGA/COGR, specific accounting and administrative guidelines and filing requirements will be necessary assuring standardization among Joint Applicants both during and after the transition. Staff has presented a comprehensive list of conditions to accommodate this perceived requirement with which Joint Applicants agree. Based on its review of the verified pleadings and testimony filed in this matter, the Commission finds and concludes that the Joint Application, as conditioned by Staff's requirements listed in paragraph 13 above, is reasonable, in the public interest and should be approved.

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) CURB's Motion to File Comments Out of Time, and Comments on Application and the Staff Report and Recommendation on Application is hereby granted.

(B) Joint Applicants' Joint Application, as modified and conditioned by requirements (a) through (j) set forth in paragraph 13 above, is hereby approved.

(C) Joint Applicants shall file revised PGA/COGR tariffs with the Commission for approval within thirty (30) days from the date of this Order.

(D) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders, as it may deem necessary and proper.

(E) A party may file a petition for reconsideration of this Order within fifteen (15) days from the date of service of this Order. If service is by mail, service is complete upon mailing, and three (3) days shall be added to the above time frame.

BY THE COMMISSION IT IS SO ORDERED.

Moline, Chr.; Krehbiel, Com.; Moffet, Com.

Dated: JUN 24 2005

ORDER MAILED

JUN 24 2005

 Executive Director

Susan K. Duffy
Executive Director

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