

TENNESSEE PUBLIC UTILITY COMMISSION



502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

November 7, 2019

A. Scott Ross, Esq.
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VIA E-MAIL and U.S. MAIL

RE: Docket No. 19-00072 – *Petition Of Atmos Energy Corporation for Approval of Agreement with Brown-Forman Corporation d/b/a Jack Daniel Distillery.*

Dear Mr. Ross:

To further assist the Commission in its review of the above *Petition* and evaluation of the Agreement filed in this docket on August 14, 2019, it is requested that you provide responses to the attached second staff data request.

It is requested that all responses be provided no later than 2:00 p.m. on Wednesday, November 13, 2019. In accordance with Commission rules, submit either (1) original and thirteen written copies of your response or (1) original and four written copies and an electronic version. Should you have any questions or need clarification regarding any requested item, please contact me at (615) 770-6884.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Foster".

David Foster,
Director of Utilities Division

cc: Mark A. Martin
Atmos Energy Corporation
Rates and Regulatory Affairs
3275 Highland Pointe Drive
Owensboro, KY 42303-7835
mark.martin@atmosenergy.com

Docket File

Staff Data Request #2

1 Please provide the Excel files for the Confidential Spreadsheet submitted in response to Staff's data request question #3 on October 18, 2019. Include any additional Excel files showing the calculation of the amount of Aid in Construction required from Jack Daniel based on the guaranteed margins as outlined in the Agreement.

2. The Commission's long-standing policy and recent order in Docket 18-00001 requires each utility to collect an amount up-front in order for the utility to have the necessary funding to in-turn pay the associated tax liability resulting from receiving Contributions-in-Aid-of-Construction ("CIAC"). Attached is a copy of the tariff language recently ordered in Docket No. 18-00001 which reiterates the Commission's policy which was initially established subsequent to the 1986 Tax Reform Act. Based upon the new federal tax rate, the correct tax rate amount for a utility to collect is 26.58% (.21 / (1-.21)) of all property/cash donated as CIAC. The Commission, however, has determined that in accordance with state law provisions, the state excise tax is not owed on CIAC and therefore should not be collected from the contributor.

Upon review of Atmos' tariff, the term Aid-in-Construction ("AIC") is used and discussed within Atmos' General Rules and Regulations section of its tariff (specifically T.R.A. No. 1, 2nd Revised Sheet No. 63, Canceling 1st Revised Sheet No. 63). Please clarify whether the term AIC, as used by Atmos, is synonymous with the term CIAC. If the terms are different please discuss all differences in their application for property/cash donated to Atmos, including allowable customer refunds.

3. If AIC is synonymous with CIAC, it appears that Atmos' tariff may not be consistent with well-established Commission policy requiring federal tax for CIAC to be collected in full at the time of facilities/cash are given to the utility. If these terms are synonymous, please discuss Atmos' position regarding its current tariff in light of existing Commission policy regarding CIAC.

4. Please clarify whether Atmos utilizes Customer Advances and discuss all customer and company terms relating to Customer Advances, including any refund allowances.

5. Provide journal entries for both AIC and CIAC, detailing differences if there are any, and also provide the journal entries for Customer Advances. Entries should include all affected accounts when property/cash is given and entries when money is given back to the customer.

6. Discuss in detail how contributions from Jack Daniel Distillery will be handled, including the type of contribution (AIC, CIAC, or Customer Advance), the required federal tax payments if applicable, and any customer refunds if allowed. Further, identify any federal tax amounts that Jack Daniel Distillery will be paying Atmos for any contributions deemed to be CIAC.

Contributions In Aid of Construction The contract with the developer/customer shall contain a notice of these charges and time table of payment.

For all cash and property contributions provided to the utility a gross-up factor shall be applied in order to recover the corporate federal income taxes associated with those contributions. The Utility will be paid this amount directly before the sewage system is allowed to start operation. The formula used to gross up contributed cash and property is as follows:

$$\text{Tax Impact} = \text{TR} / (1 - \text{TR}) * (\text{C} + \text{P})$$

TR = Marginal tax rate of federal corporate income tax.

C = Dollar amount of charges (cash) paid to the utility as a contribution.

P = Dollar amount of property (plant, land...) conveyed to the utility to be recorded at the original construction cost of the property conveyed to the utility, or a reasonable estimate of the original construction cost if such cost is not reasonably ascertainable.

Example 1:

Developer donates \$500,000 cash to utility to build a specified facility.

Using a 21% federal corporate tax rate, developer owes the utility federal income taxes of:

$.21 / (1 - .21) * \$500,000$, or $.2658 * \$500,000 = \$132,900$.

In total, developer owes utility \$632,900 (\$500,000 cash + \$132,900 in federal corporate income taxes).

Example 2:

Developer donates \$500,000 in plant and land to utility as a contribution.

Using a 21% federal corporate tax rate, developed owes the utility federal income taxes of:

$.21 / (1 - .21) * \$500,000$, or $.2658 * \$500,000 = \$132,900$

For the contributed property, developer owes the utility \$132,900 in corporate federal income taxes for the \$500,000 in property contributed.

Annual Reporting Requirements for Contributions In Aid of Construction

Utility shall file calculations with its Annual Report detailing: (1) the individual amounts of cash and property contributions received for the twelve months ending December 31 ("reporting year"); (2) the location and description of contributed plant; (3) the location and property deed of donated land; (4) amount of cash contributed for each project; (5) the calculation of the utility's tax liability using the tariffed formula for the reporting year, separated by amounts related to property and cash; and (6) the amount of federal corporate income taxes actually collected on contributions in aid of construction for the reporting year.