

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 15AL-0299G

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IN THE MATTER OF ADVICE LETTER NO. 518, FILED BY ATMOS ENERGY CORPORATION TO PLACE IN EFFECT TARIFF SHEET CHANGES TO BE EFFECTIVE ON JUNE 1, 2015

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**STIPULATION AND SETTLEMENT AGREEMENT BETWEEN ATMOS ENERGY CORPORATION, TRIAL STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION, THE COLORADO OFFICE OF CONSUMER COUNSEL, AND ENERGY OUTREACH COLORADO**

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This Stipulation and Settlement Agreement (“Stipulation”) is entered into by and between Atmos Energy Corporation (“Atmos Energy” or the “Company”), Trial Staff of the Colorado Public Utilities Commission (“Staff”), the Colorado Office of Consumer Counsel (“OCC”), and Energy Outreach Colorado (“EOC”), each of which is a “Settling Party” and collectively are the “Settling Parties”. The Settling Parties submit this Stipulation in resolution of all issues which were or could have been raised between the Settling Parties in this Proceeding and respectfully request that the Colorado Public Utilities Commission (“Commission”) approve this Stipulation for the purpose of resolving the issues in this Proceeding between the Settling Parties.

**Procedural Background**

1. On May 1, 2015, Atmos Energy filed Advice Letter No. 518 with an effective date of June 1, 2015. Atmos Energy proposed to increase annual base revenues through a General Rate Schedule Adjustment (“GRSA”) rider, to recover rate case expenses in a separate rider over a period of one year, and to implement a System Safety and Integrity Rider to recover additional capital investment for accelerated replacement of aging pipeline facilities beginning in 2016.

2. On May 29, 2015, the Commission found good cause to suspend the effective date by 120 days and to set the matter for hearing pursuant to § 40-6-111(1), C.R.S. By Decision No. C15-0508, the Commission suspended Advice Letter No. 518 until September 29, 2015, and referred the matter to an Administrative Law Judge (“ALJ”) for a Recommended Decision.

3. Interventions in this docket were filed by Staff, EOC, and the Office of Consumer Counsel (“OCC”). Decision No. R15-0637-I, issued on July 7, 2015, granted the interventions, further suspended the effective date of Advice Letter No. 518 until December 28, 2015, established a procedural schedule, and if a Commission Decision is not issued within the 210-day suspension, approved the rates and tariffs filed with Advice Letter No. 518 be placed into effect on January 1, 2016, as interim rates, subject to refund with interest.

4. On August 14, 2015, Staff, EOC, and OCC filed answer testimony. On September 8, 2015, Atmos Energy filed rebuttal testimony.

5. After initial settlement negotiations among the parties in the Proceeding broke down, Staff engaged the Company and continued to negotiate and reached an agreement in principle, which forms the essence of this Stipulation. Subsequently the Company engaged in further negotiations with the EOC and the OCC, and the EOC and OCC are also Settling Parties.<sup>1</sup> The Settling Parties arrived at this Stipulation which resolves all of the issues that were or could have been raised by the Settling Parties in this Proceeding.

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<sup>1</sup> The EOC and OCC do not agree with the characterization of the settlement process contained in the preceding two sentences, and do not join in as to their inclusion in the Settlement Agreement.

### **Settlement Terms and Conditions**

6. The Settling Parties agree that Atmos Energy should be authorized to separately implement a base rate increase, a mechanism to recover rate case expenses, and a mechanism to recover system safety integrity costs as discussed in more detail below. The specific rate changes that would result from the Stipulation are set forth in greater detail on Attachment A (Proof of Rates).

#### **A. Base Rate Revenue Requirement**

7. The Settling Parties agree that Atmos Energy is authorized to implement a base rate increase of \$1,960,000 (“Settlement Base Rate Increase”) on January 1, 2016. As set forth on Attachment A, the Settling Parties note that using current gas costs, the Settlement Base Rate Increase results in an anticipated total rate increase of 1.74 percent for residential customers. The Settlement Base Rate Increase shall be implemented in customer rates through a 5.4 percent GRSA.

8. The Settling Parties derived the Settlement Base Rate Increase in accordance with the following principles. First, the Settling Parties began with the revenue requirement set forth in the Company’s rebuttal filing that accepted a number of adjustments supported by intervenors.<sup>2</sup> The Settling Parties then agreed on a number of further adjustments set forth below to derive the final Settlement Base Rate Increase. Second, with regard to rate of return and for purposes of calculating the Settlement Base Rate Increase, the Settling Parties agree to use a 9.6 percent rate of return on equity and the Company’s actual cost of debt. The Settling Parties further agree to calculate the Settlement Base Rate Increase using a capital structure consisting of

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<sup>2</sup> See Rebuttal Testimony of Joe T. Christian, pg. 31, lines 4-16.

52 percent equity and 48 percent debt. Based on these agreements, the rate of return on rate base for purposes of calculating the Settlement Base Rate Increase is 7.82 percent.

9. Third, with regard to revenues and for purposes of calculating the Settlement Base Rate Increase, the Settling Parties agree not to utilize the Company's declining usage adjustment and customer growth adjustment as detailed in the Direct Testimony and Attachments of Mr. Geiger. In addition, the Settling Parties agree to use the weather normalization adjustment testified to in Rebuttal Testimony by Mr. Geiger, and not the regression method.<sup>3</sup>

10. Fourth, with regard to rate base and for purposes of calculating the Settlement Base Rate Increase, the Settling Parties agree (a) to the principle of using average-of-period rather than end-of-period Plant-in Service and Accumulated Deferred Income Taxes (ADIT); and (b) agree that Plant-in-Service should be based on the 15-month average-of-period plant balance for the period beginning June 1, 2014 and ending August 31-, 2015. The plant investment in 2015 is included as a negotiated known and measurable change based on the Company's actual investments in pipeline infrastructure in 2015. The Parties agree that the period on which the average Plant-in Service balance is computed duly reflects the Company's higher level of investments in 2014 and 2015 as compared to prior periods. Further, the Settling Parties agree that the Settlement Base Rate Increase reflects no return on the Company's prepaid pension asset.

11. A calculation of how the Settlement Base Rate Increase is derived from the Company's filed revenue requirement is included with this Stipulation as Attachment B. In addition to quantifying the adjustments specifically discussed above, Attachment B includes a

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<sup>3</sup> See Rebuttal Testimony of Jared N. Geiger, pg. 8, lines 11-13.

final negotiated amount reflecting an unspecified adjustment generally accounting for Accumulated Deferred Income Tax, other unspecified rate base adjustments proposed by the Settling Parties, and other expense adjustments proposed by the Settling Parties. Collectively, these adjustments including the final negotiated and unspecified adjustment derive the Settlement Base Rate Increase.

### **B. Going-Forward Base Rate Issues**

12. The Settling Parties agree that Atmos Energy shall utilize as the approved depreciation rates the depreciation rates set forth in the 2014 Depreciation Rate Study attached to the Direct Testimony and Attachments of Mr. Dane A. Watson.

13. The Settling Parties agree to a two year rate case stay-out such that new base rates will not be implemented before January 1, 2018. Thus, Atmos Energy may file a rate case seeking to change base rates on or after May 5, 2017 (anticipating a 30 day notice period and a 210 day suspension period).

14. The Settling Parties agree that Atmos Energy shall use the specific regulatory principles reflected in this Stipulation for purposes of Atmos Energy's Annual Reports, Appendix A, and GCA calculations.

15. The Settling Parties agree that unless specifically stated in the Stipulation, nothing in the Stipulation shall limit the positions that any Settling Party may take in a future Atmos Energy rate case, including but not limited to any position any Settling Party may deem appropriate regarding adjustments to certain long-term incentive compensation costs and the propriety of the Company's long-term incentive compensation policies going forward.

### **C. Pension Tracker**

16. The Settling Parties agree that the Company shall track changes in the level of pension expense over time as compared to the level of pension expense included in rates from this proceeding. Thus, on January 1, 2016, Atmos Energy will begin to track in an accounting regulatory asset the difference between the level of pension expense included in base rates in this proceeding (Shared Services \$161,727, Denver General Office \$38,734, and Direct Colorado Operations \$278,109) and the actual level of pension expense incurred by the Company on an annual basis and allocated to its Colorado operations. On the effective date of the new base rates following Atmos Energy's next rate case filing, Atmos Energy will stop tracking the difference between the level of pension expense included in base rates in this proceeding and the actual level of pension expense. Effective January 1, 2016, the Settling Parties agree that the Company shall be allowed to earn a return on its prepaid pension asset balance of 5.9 percent (the Company's actual weighted cost of debt in this proceeding). The accounting regulatory asset will also track the allowed return on the monthly balances of the Company's prepaid pension asset allocated to its Colorado operations. In Atmos Energy's next rate case filing, the Company will propose a method to recover the net amounts in the accounting regulatory asset. The other Settling Parties agree not to contest the right of Atmos Energy to recover the amounts in the accounting regulatory asset but reserve the right to take such position as they may deem appropriate regarding the manner in which those amounts should be recovered from customers. Nothing in this paragraph is intended to limit any Settling Parties' rights to propose an alternative treatment going forward for the prepaid pension asset in future rate cases.

#### **D. Rate Case Expense**

17. At the conclusion of the evidentiary hearing, Atmos Energy will submit a late-filed exhibit documenting the Company's actual rate case expenses. The Settling Parties agree that Atmos Energy will separately recover actual rate case expenses as set-forth in the late-filed exhibit, amortized over two years, through a GRSA that is in addition to the GRSA implementing the Settlement Base Rate Increase set forth above.

#### **E. System Safety and Integrity Rider ("SSIR")**

18. The Settling Parties agree to separately recover system safety integrity costs through the SSIR as described in the rebuttal testimony and attachments of Atmos Energy with the modifications described below. A modified SSIR Tariff consistent with this Settlement is included as Attachments C (clean version) and D (redlined as compared to tariffs included with the Company's Rebuttal Filing).

19. The SSIR will be implemented for an initial three year term, from January 1, 2016, through December 31, 2018, and will recover capital investments made between September 1, 2015, and December 31, 2018, that are associated with integrity projects. Atmos Energy shall have the right to seek an extension of the initial three-year term in a future filing.

20. The SSIR shall be assessed through volumetric charges only. Further, Atmos Energy agrees that the total bill increase for sales customers associated with the SSIR shall not exceed 2.5 percent per year as calculated below. In each annual SSIR filing, Atmos Energy will calculate the total revenue from sales customers for the 12 months ending four months prior to the date of the filing. Atmos Energy will further calculate the revenue increase associated with

the proposed SSIR for its sales customers. Thus, Atmos Energy commits that the revenue increase for its sale customers associated with the SSIR shall not exceed 2.5 percent of the total revenues from sales customers for the 12 months ending four months prior to each annual filing.

21. Atmos Energy will comply with FERC Utility Accounting Rules. Only capital expenditures associated with high and moderate risk projects will be recovered through the SSIR. All projects that replace bare steel or polyvinyl chloride plastic (“PVC”) will be classified as high risk projects without a quantitative risk assessment.

22. Atmos Energy agrees to the following annual submittals to the Commission:

a. SSIR Five Year Forecast, SSIR Cost Recovery Request, and Company’s confidential DIM Plan.

i. The first submittal will be due February 1, 2016, with an effective date of February 29, 2016.

ii. Subsequent submittals will be filed no later than November 1st, with an effective date of the subsequent January 1st.

b. Beginning in 2017, SSIR Cost Recovery Prudence Review will be filed no later than April 30<sup>th</sup>.

23. For the initial three-year SSIR term, Projects that replace bare steel and PVC will be prioritized using Atmos Energy’s Project Prioritization Tool.



- a. The project list will be submitted annually for review in the Five Year Forecast and SSIR Cost Recovery Request.
- b. Due to the dynamic nature of the natural gas system, the project list for the Five Year Forecast may change from year to year.

24. To the extent the Company seeks to include projects other than bare steel and PVC in the SSIR, either in the initial three year term or to the extent the SSIR is extended, the Company will propose a quantitative risk assessment tool associated with those projects. All Settling Parties reserve the right to take such positions as they deem appropriate with regard to whether projects other than bare steel and PVC should be classified as moderate or high risk and the appropriate quantitative risk assessment tool for such projects.

25. Atmos Energy agrees that any costs approved by the Commission to be allocated and collected volumetrically via the SSIR will be shifted to base rates only in the context of a rate case filing that includes a class cost of service and rate design component analysis, including a full cost of service study.

#### **General Terms and Conditions**

26. The Settling Parties agree that this Stipulation is in the public interest and will be supported by the Settling Parties' testimony and/or statements of counsel in this proceeding. The Settling Parties agree to support this Stipulation as being in the public interest in proceedings before the Commission and to advocate in good faith that the Commission approve this Stipulation in its entirety.

27. The Settling Parties agree that this Stipulation represents a compromise in the positions of all Settling Parties and has been negotiated as a comprehensive settlement. As such, the Settling Parties acknowledge that their support and advocacy of the Stipulation is based upon the Stipulation as a whole and not based upon its individual components viewed in isolation. Additionally, evidence of conduct or statements made in the negotiation and discussion phases of this Stipulation will not be admissible as evidence in any proceeding before the Commission or any court.

28. The Settling Parties agree that all negotiations relating to this Stipulation are privileged and confidential, and that no party will be bound by any position asserted in the negotiations, except to the extent expressly stated in this Stipulation.

29. The Settling Parties agree that except as otherwise expressly noted in this Stipulation: (a) the execution of this Stipulation will not be deemed to constitute an acknowledgment of any Settling Party of the validity or invalidity of any particular method, theory or principle of ratemaking or regulation, and no Settling Party will be deemed to have agreed that any principle, method or theory of regulation employed in arriving at this Stipulation is appropriate for resolving any issue in any other proceeding; (b) the execution of the Stipulation will not constitute the basis of estoppel or waiver in future proceedings by any Settling Party; and (c) no Settling Party will be deemed to be bound by any position asserted by any other Settling Party, and no finding of fact or conclusion of law other than those expressly stated will be deemed to be implicit in this Stipulation. Any specific reservation of future litigation rights contained in the Stipulation should not be deemed to waive the applicability of this general reservation of litigation rights in future proceedings as to all matters contained in the Stipulation.

30. The Settling Parties acknowledge that their support and advocacy of the Stipulation may be compromised by material alterations thereto. In the event the Commission rejects or materially alters the Stipulation, the Settling Parties agree that within seven days of such Commission Decision any Settling Party may provide notice to the other Settling Parties of its objection to the Stipulation as modified. Upon such objection, the Settling Parties will no longer be bound by its terms and will not be deemed to have waived any of their respective procedural or due process rights under Colorado law. If a Settling Party objects to the Stipulation as modified, it may withdraw from the Stipulation.

31. If the Commission chooses to adopt and approve the Stipulation, this Stipulation resolves all disputed matters relative to this proceeding between the Settling Parties. Any disputed matters will be deemed resolved to the extent that the Stipulation is not compromised by material alterations.

32. Except as otherwise expressly provided in this Stipulation, the issuance of a Decision approving this Stipulation will not be deemed to work as an estoppel upon the Settling Parties or the Commission, or otherwise establish, or create any limitation on or precedent of the Commission, in future proceedings.

33. This Stipulation will not become effective and will be given no force and effect until the issuance of a final written Commission decision that accepts and approves this Stipulation.

34. This Stipulation may be executed in one or more counterparts and each counterpart will have the same force and effect as an original document and as if all the Settling Parties had signed the same document. Any signature page of this Stipulation may be detached

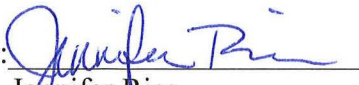
from any counterpart of this Stipulation without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of the Stipulation identical in form hereto but having attached to it one or more signature page(s). The Settling Parties agree that “pdf” signature pages exchanged by e-mail will satisfy the requirements for execution.

BASED ON THE FOREGOING, the Settling Parties respectfully request that the Commission issue a Decision approving this Stipulation and adopting the terms and conditions of this Stipulation.

DATED this 23rd day of September, 2015.

RESPECTFULLY SUBMITTED,

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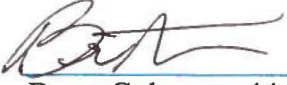
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