

J. KENNEDY AND ASSOCIATES, INC.

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October 2, 2020

Ms. Kathryn Bowman
Louisiana Public Service Commission
Office of the General Counsel
602 North Fifth Street (Galvez Building) (70802)
P. O. Box 91154
Baton Rouge, LA 70821-9154

**Re: RFP 20-16 Docket No. X-35708
Proposal to Provide Consulting Services
In Re: Audit of Purchase Gas Adjustment Filings for Atmos Energy-Louisiana
Division (a Regulatory Division of Atmos Energy Corporation) for the period of
April 2018 through March 2020.**

Dear Ms. Bowman:

J. Kennedy and Associates, Inc. (“Kennedy and Associates”) is pleased to submit this proposal to assist the Louisiana Public Service Commission Staff (“Commission” and “Staff”) in the review of the purchased gas adjustment clause (“PGA”) filings of Atmos Energy-Louisiana Division (a Regulatory Division of Atmos energy Corporation) (Atmos) for the period of April 2018 through March 2020. Kennedy and Associates has provided consulting services to the Commission in numerous utility rate proceedings, audits, and other proceedings. This proposal is structured to meet the requirements of the Commission’s Request for Proposal (“RFP”) 20-16 dated September 8, 2020, and the Commission’s Rules Governing the Selection of Contract Employees dated November 10, 2014.

Qualifications of J. Kennedy and Associates, Inc.

Kennedy and Associates is extremely well qualified to perform these audits. First, our firm, on behalf of the Commission, developed the current fuel adjustment clause (“FAC”) process in the Docket No. U-21497 generic fuel proceeding, including the various guidelines and rules as well as the various reporting forms, adopted by the Commission in its General Order dated November 6, 1997. The Commission’s General Order dated March 24, 1999 for the PGA filings was patterned after the General Order for the FAC filings.

Second, our firm, also on behalf of the Commission Staff, has performed numerous comprehensive reviews and audits of purchased gas costs and fuel costs. This includes prior experience performing audits of TransLa and LGS PGA filings for the period of 2007 through 2009. We audited Entergy Louisiana L.L.C. for the years 2002-2004 in Docket No. U-25116. Two other audits involved Entergy Gulf States, Inc. (“EGSI”), now a part of Entergy Louisiana L.L.C. (“LLC”), in Docket

Nos. U-20647 and U-19904. Another review involved Southwestern Electric Power Company (“SWEPCO”) in Docket No. U-23327. In these proceedings, our firm identified numerous instances of non-compliance with the Commission’s prior Orders, the General Order, and sound ratemaking principles. As a result of these reviews, the Commission ordered tens of millions of dollars of refunds to Louisiana retail ratepayers. Kennedy and Associates also performed a special “Fuel and Purchased Power Cost” audit of ELL and EGSL in 2005 and 2006 following Hurricanes Katrina and Rita in Docket Nos. U-29175 and U-29176. Finally, our firm completed an audit of the FAC filings and trading activities of Cleco Power, LLC in Docket No. U-26994, which resulted in a settlement and significant refunds to ratepayers.

Third, our firm has represented consumer interests in numerous gas and electric base rate and purchased gas and fuel adjustment clause proceedings in other jurisdictions, including Georgia, Ohio, Pennsylvania, and Kentucky. Among the issues we addressed were excessive fuel prices due to corruption, mine closure and reclamation costs, capital versus expense, and various accounting and ratemaking issues, including transactions with affiliates.

Fourth, our firm has been involved in hundreds of regulatory proceedings since its formation, with our principals having provided expert testimony in most of those proceedings. These proceedings have included analyzing the operations, books, and records of utility companies for the purpose of setting just and reasonable rates, addressing affiliate transactions and cost-sharing among utility affiliates (regulated and non-regulated), natural gas and fuel recovery through PGA and FAC filings and the base ratemaking process, and addressing various intercompany system agreements. Our principals and consultants are experienced and have filed testimony on the following subjects, among others:

1. Appropriate accounting standards and practices for utilities, public utility accounting, and generally accepted auditing standards.
2. Appropriate ratemaking adjustments to the utility’s accounting records.
3. Appropriate allocations of costs to base rates and PGA or FAC.
4. Recoverable expenses for ratemaking purposes.
5. Just and reasonable costs and prudent investments associated with providing reliable and quality service.
6. Costs passed through a PGA or FAC which are considered reasonable and prudent, appropriate and/or eligible for recovery pursuant to Commission orders, which are necessary for the provision of gas (electric) service and which have or will produce just and reasonable rates.
7. Utility taxation issues.
8. Utility certification proceedings.

9. Rulemaking proceedings.

Along with the hard copies of this proposal sent to the Commission, we have enclosed a single copy of Kennedy and Associates' qualifications, which includes the resumes of all principals and consultants. The resumes list the regulatory proceedings and subject matters addressed by our consultants in the form of expert testimony provided in those proceedings. We will be pleased to provide you with additional copies of the qualifications upon request.

Scope of Representation

Kennedy and Associates will assist the Commission's Legal, Audit, and Utilities Divisions in analyzing natural gas purchases and usage by Atmos from April 2018 through March 2020. In performing this review, we will review PGA filings, accompanying workpapers, as well as the company's financial data; draft data requests and review responses; review historical data involving prior audits; participate in formal status conferences, pre-trial conferences, depositions, and hearings; prepare for filing audit memoranda and/or pre-filed testimony in support of Staff's ultimate recommendation(s), together with exhibits supporting the memoranda and/or pre-filed testimony; assist in the drafting of cross-answering and/or rebuttal testimony, if necessary; and assist in the drafting of applicable motions, exceptions, briefing sheets and orders of the Commission. Additionally, we will participate in informal conference calls, meetings and conferences with the Commission and its staff as well as attend any Business and Executive Sessions that the Staff deems necessary. The scope of the work shall continue through the conclusion of the docket through Commission vote, regardless of whether said vote is the result of a stipulated agreement or contested hearing recommendation.

The audit procedures, as outlined by the PGA Order, shall include but not be limited to:

- 1) An investigation into the purchased gas costs incurred by the utility during the designated review period for compliance with the requirements of the general order.
- 2) A review and analysis of the utility's monthly comprehensive purchase gas adjustment schedules filed with the Louisiana Public Service Commission.
- 3) If applicable, the development and improvement of internal staff procedures to effectively monitor and evaluate a utility's performance in areas impacting the gas costs which are reflected in the utility's monthly purchase gas adjustment filings with the Commission.
- 4) A review of the utility's price risk management guidelines pertaining to purchased gas (including policies regarding physical hedging, fixed price transactions, index transactions, fixed for floating price swaps, options to purchase, and other arrangements) to determine their propriety and a recommendation of modifications if appropriate;

- 5) A quantification of the adverse impact on ratepayers, if any, for each audit topic.
- 6) Compliance with any prior utility-specific Commission Orders regarding the utility's PGA filings, if applicable.

We will assist the Staff in reporting Staffs findings in writing to the Commission, identifying any irregularities in the monthly purchase gas adjustment calculations assessed and applied to Louisiana consumer billing statements or which allowed for the recovery of unauthorized expenses by the utility. The report also will include a written or executive summary which identifies any cost included in the audit found to be non-compliant with the Commission's applicable rules and regulations, a statement of appropriate disallowances, the reasons therefore, and a recommendation as to the appropriate methodology to be utilized by the Commission to provide for recovery and/or refund of those costs.

Upon completion of the Commission's review, the Staffs audit report will be filed in the record of this proceeding and notice published in the Commission's Official Bulletin for intervention and comment. If designated by the utility, specific information related to the purchase of fuel and/or purchase power cost which was filed with the Commission under proprietary cover shall remain confidential and for Commission use only.

Action Plan to Perform Comprehensive Review

Kennedy and Associates will follow the Audit approach outlined in the Commission's General Order dated March 24, 1999 in Docket U-22407 and set forth in the RFP. First, we will obtain copies from the Commission of all Atmos PGA filings and the related supporting documentation for the audit period. This includes monthly purchase gas adjustment schedules filed with the Commission.

Second, we will perform analytics by comparing natural gas and transportation costs to determine any significant changes or abnormalities in pricing or utilization during the audit period.

Third, we will compare the Companies' natural gas costs to other publicly available information in order to identify any significant differences or abnormalities.

Fourth, we will obtain an understanding of the Companies' gas procurement practices, including the involvement of the utilities' affiliates in that process, in order to assess the effect on the PGA filings. This will include a review of the Companies' contracts and risk management guidelines, including a review of hedging practices.

Fifth, we will obtain a copy of the Companies' gas procurement and transportation contracts and assess the contract terms and conditions to determine if there were variations from the contract terms.

Sixth, we will systematically review the costs included by the Company in the PGA filings during

the audit review period against the requirements in the Commission's General Order.

Seventh, we will quantify all adjustments to the extent it is possible to do so.

Eighth, we will prepare an Audit Report, as required by the Commission's General Order, detailing the results of our investigation. The Audit Report will contain an executive summary and will discuss specific findings and recommendations regarding whether the costs passed through the PGA were or were not reasonable and prudent, and whether the costs were appropriate for recovery in the PGA mechanism consistent with the General Order.

Ninth, we will review and respond to comments on the Audit Reports by Atmos and other parties.

Tenth, we will work with the Staff to attempt to resolve issues that are identified in the Audit Reports through settlement negotiations with the parties.

Eleventh, if any of the issues identified in the Audit Reports move to litigation, we will prepare and file testimony; review and respond to the testimony of Atmos and other parties; assist Staff counsel in preparation for hearings, during the hearings, and after the hearings; and stand for cross-examination.

To perform this comprehensive review, Kennedy and Associates' project team will work closely with the Staff at the onset to develop a detailed audit plan and to include the Staff in the review process, consistent with the Staff's time availability and desire to participate in particular areas of interest. We anticipate several rounds of written discovery on the Company and technical conferences with the Company's personnel as necessary. If applicable, we will help to develop improved Staff procedures for monitoring and evaluating a utility's performance in areas impacting the gas costs, which are reflected in the utility's monthly PGA filings.

Assuming timely responses to the Staff's written discovery, we can complete this review and prepare initial drafts of the Audit Report for the Commission Staff to review within nine to twelve months of commencing work. We will work with the Staff and the other parties to develop a procedural schedule for Atmos and the other parties to comment on the Audit Report, engage in settlement discussions, hold hearings, file briefs, respond to proposed and final recommended decisions of the ALJ, and prepare a final Commission Order. We understand that the Commission estimates that the time period to complete this docket is approximately 18 months; we will be available to assist the Commission with this assignment throughout the entire proceeding.

Meeting Minimum Requirements

Kennedy and Associates has considerable experience in analyzing the operations, books, and records of utility companies for the purpose of purchased gas and fuel adjustment clause audits, and is familiar with the methodologies utilized by the LPSC. Furthermore, Kennedy and Associates is qualified to provide expert assistance with respect to this project, given that:

- (1) Our consultants have educational backgrounds in economics, accounting, finance, and

engineering, which we believe are the backgrounds necessary for an thorough understanding issues that may arise in PGA and FAC proceedings;

- (2) Our consultants have written numerous audit reports, participated in hundreds of regulatory proceedings, and are qualified and experienced experts in written and live testimony;
- (3) Our consultants are experts in the regulatory ratemaking process, particularly in Louisiana, and are knowledgeable of the appropriate accounting standards that are applied to gas and electric utilities; and,
- (4) Our approach to conduct this assignment will follow the Action Plan outlined in the prior section. Our approach will also be flexible to address other matters of importance as they arise during this proceeding.

Budget to Perform Comprehensive Review

To perform the comprehensive review of the PGA filings and to address issues that move to litigation, we propose a total budget of \$37,000, consisting of \$36,000 for consulting services and \$1,000 for expenses. This budget assumes the scope identified in the Commission's RFP and reflected in this proposal and includes the audits, preparation of the Audit Report, settlement discussions, filing of testimony, hearings, and assistance to the Commission Staff and Staff Counsel through the issuance of the Commission's final order. As directed in the RFP, the budget does not include representation of the Commission in the event of an appeal of the final order to state or federal court. The costs of such services will be billed at the hourly rates on the Attachment to this proposal. Hourly rates for the project team are provided as an Attachment to this proposal.

No Conflicts of Interest

Kennedy and Associates has no known conflict of interest in representing the Louisiana Public Service Commission in this proceeding. Kennedy and Associates does not represent investor-owned gas or electric utilities.

Thank you for the opportunity to provide consulting services to the Commission Staff on this important project. Please call or e-mail me at lkollen@jkenn.com or Stephen Baron, the President of Kennedy and Associates, at sbaron@jkenn.com with any questions or comments.

Sincerely,



Lane Kollen
Vice President

LK:ji
Attachment

J. Kennedy and Associates, Inc.
Hourly Fee Schedule
For Atmos Energy PGA Audits April 2018-March 2020

<u>Title</u>	<u>Name</u>	<u>Hourly Rate</u>
President	Stephen J. Baron	\$266
Vice President	Lane Kollen	\$266
Vice President	Philip Hayet	\$266
Director	Richard A. Baudino	\$254
Director	Brian R. Barber	\$254
Manager	Randy Futral	\$254
Senior Consultant	Ann Bruccoliere	\$195
Consultant	Sam Wyrobeck	\$175
Consultant	Brian Kollen	\$160
Analyst	Jessica Inman	\$120
