

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the matter of Atmos Energy Corporation's       )  
2008-2009 Purchased Gas Adjustment and       )  
Actual Cost Adjustment                               )  
**Case No. GR-2009-0417**

**STAFF'S POSITION STATEMENT**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), and submits its Position Statement pursuant the Procedural Schedule adopted herein and the Joint Issues List filed by Staff and Public Counsel. The Staff's positions on the issues to be resolved by the Commission in this PGA/ACA case are as follows:

- 1) Were the rates Atmos charged for natural gas during the 2008-2009 ACA period just and reasonable?**

**Staff Position**

No. Atmos Energy Corporation ("Atmos") has not established the reasonableness of the fair market price of gas supplies it purchased from its affiliate Atmos Energy Marketing ("AEM").

First, the gas transactions between the regulated local distribution company Atmos and its unregulated affiliate AEM do not comply with the recordkeeping requirements of the Commission's affiliate transaction rules 4 CSR 240-40.015 (5). Atmos has not kept records on the cost methodology and the costs allocated to and away from the gas transactions that are required under the rules. Without these cost records, the Staff is not able to perform a complete prudence review of the costs associated with the gas supplies Atmos purchased from AEM in a competitive market – a market that is available to both Atmos gas

buying entities. As a result the Staff must rely on the limited information supplied by the company. Because of Atmos' lack of cost documentation it cannot demonstrate the reasonableness of the price it paid AEM for gas and passed on to ratepayers through its PGA.

Second, Atmos' Request For Proposal process yields inconsistent bid results from fewer conforming gas suppliers. These inconsistencies create serious doubt about the RFP's ability to establish a reasonable range of bid responses for what is questionably the same level of firm gas service. Adding to that doubt is the confusion seen in the ultimate vendor responses and resulting contracts over what service level Atmos requested and ultimately received.

Third, Atmos bears the burden of proving that the PGA rates it charged to its Hannibal and Butler customers were just and reasonable because there is no presumption of reasonableness in affiliate transactions. Furthermore Staff has raised serious doubt about the prudence of Atmos' purchases from AEM because 1) Atmos has not provided Staff the cost documentation required under the affiliate rules and 2) because of the inconsistencies resulting from Atmos' RFP process. Atmos has not met its burden.

**2) What, if any, ACA adjustments should the Commission order for the 2008-2009 ACA period?**

**Staff Position**

Staff proposes an adjustment of \$319,374 for the Hannibal area and \$81,852 for the Butler area related to the affiliated transactions between Atmos and AEM. Staff's adjustment is based on information supplied by AEM as to the fair market price of the gas supplies Atmos received from AEM. The total proposed

disallowance of \$401,226 passes on to Atmos' captive ratepayers the true cost of AEM's gas supplies as if Atmos had purchased those same supplies for itself in an arms-length transaction from the same suppliers.

**WHEREFORE**, the Staff respectfully submits its position statement.

Respectfully submitted,

**/s/ Robert S. Berlin**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 26th day of July 2011.

**/s/ Robert S. Berlin**