FILED[3]
DEC 19 2006
Missouri Public
Service Commission

Exhibit No.: Ex No. 9 NP
Issue: Economic Development Rider; Changes to Transportation Tariff – Availability, Cash-Out Procedures, Scheduling Fees, Operational Flow Orders, Pooling Service and Miscellaneous Changes; Main Extension Policy; Special Contracts
Witness: Robert V. Kerley
Type of Exhibit: Direct Testimony
Sponsoring Party: Atmos Energy Corporation
Case No.: GR-2006-0387
Date Testimony Prepared: March 27, 2006

PF 11-30-06

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. GR-2006-0387

DIRECT TESTIMONY

OF

ROBERT V. KERLEY

ON BEHALF OF

ATMOS ENERGY CORPORATION

March 2006

Atmos Exhibit No. 9
Case No(s). GR-2006-0387
Date 11-30-06 Rptr PF

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Atmos Energy Corporation's Tariff Revision Designed to Consolidate Rates and Implement a General Rate Increase for Natural Gas Service in the Missouri Service Area of the Company.	))))	Case No.

AFFIDAVIT OF ROBERT V. KERLEY

STATE OF Tennessee)
) ss
COUNTY OF Williamson)

Robert V. Kerley, being first duly sworn on his oath, states:

1. My name is Robert V. Kerley. I work in Franklin, Tennessee, and I am employed by Atmos Energy Corporation as the Manager Sales for Atmos' Mid-States Division.

2. Attached hereto and made a part hereof for all purposes is my Direct Testimony on behalf of Atmos Energy Corporation consisting of Thirteen (13) pages and Schedules RVK-1, RVK-2, RVK-3, RVK-4 and RVK-5, all of which having been prepared in written form for introduction into evidence in the above-captioned docket.

3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.

Robert V Kerley
Robert V. Kerley

Subscribed and sworn before me this 21st day of March, 2006.

Pamela Todd
Notary Public

My commission Expires: 05-24-08

PAMELA TODD
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.

My Commission Expires 05-24-08

BEFORE THE

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO.

PREPARED DIRECT TESTIMONY

OF

ROBERT V. KERLEY

On Behalf of

ATMOS ENERGY CORPORATION

I. POSITION AND QUALIFICATIONS

Q. Please state your name, position and business address.

A. My name is Robert V. Kerley. I am Manager Sales for the Central Region of the Mid-States Division of Atmos Energy Corporation ("Atmos" or "Company"). My business address is 200 Noah Drive, Franklin, TN 37064.

Q. Please briefly describe your educational and professional background, and current responsibilities.

A. I attended the University of Tennessee and studied Business Administration. I have been employed in the natural gas industry since 1989 and have held various positions in the sales and marketing area. I have been employed by the Company since 1989 which, at that time, was known as United Cities Gas Company. United Cities was acquired by Atmos in 1997.

I assumed my current position in 1997. As Manager Sales for the Central Region of Atmos' Mid-States division, which includes Missouri, my primary responsibilities include the coordination and implementation of business development activities that add value to our customers and shareholders.

I also currently serve on the Commercial Marketing Committee of the Southern Gas Association.

Q. Have you ever testified before this Commission?

A. No.

II. PURPOSE OF TESTIMONY

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to support proposed new tariffs, changes to existing tariffs as well as changes to the Company's Rules and Regulations regarding its main extension policy in Missouri. I am also sponsoring special contracts with two industrial customers served by the Company in Missouri – Noranda Aluminum and General Mills.

III. ECONOMIC DEVELOPMENT RIDER

Q. Are you sponsoring any proposed new tariffs in this proceeding?

A. Yes. I am sponsoring an Economic Development Rider reflected in new Tariff Sheet Nos. 34-36, and which are included as part of the Company's Tariff Book submitted as part of the Minimum Rate Filing ("MFR") referred to in the testimony of Company witness Patricia Childers.

Q. What is the purpose of the Economic Development Rider?

A. The purpose of the Economic Development Rider is to attract industrial development in Missouri by offering incentive type rates to encourage industrial expansion and economic development within the Company's service area. This type of industrial growth will enhance the Company's system utilization and will allow fixed costs to be spread over larger volumes and/or customers and thereby ultimately lower costs to existing customers.

Q. Can you describe any eligibility requirements and incentives associated with the Economic Development Rider?

A. The availability of service under the tariff is structured in such a manner that not only attracts new customers who are considering locating to Missouri, but also encourages existing customers to expand their production within the state. New customers must contract for a minimum of 270,000 Ccf annually to be eligible for service under the Rider. The commodity rate would be reduced by 25% for a period of four years for those customers.

An existing customer's eligibility for service under the Rider would be dependent upon an annual increase in consumption of 135,000 Ccf or more over and above the customer's "Base Load" consumption. The "Base Load" consumption would be equal to the customer's annual consumption during the twelve months immediately preceding the customer's request for service under the Rider. The commodity rate on all new consumption over and above the Base Load would be discounted by 25% for a period of four years for customers who qualify.

IV. CHANGES TO TRANSPORTATION TARIFF

Q. Are you sponsoring any changes to existing tariffs in this proceeding?

A. Yes. I am sponsoring a proposed change to the Company's transportation service tariff as shown in Tariff Sheet Nos 55-62 of the Tariff Book included in the MFR.

Q. What are the changes being proposed to the transportation tariff?

A. Changes have been made to the Availability section of the tariff. The Company also proposes to make the transportation tariff a rider, which will work as a companion to the Large Firm General Service tariff and the Interruptible Gas Service tariff. Stipulations have been added for a monthly cash out procedure, scheduling fees and operational flow orders. The last proposed change is the addition of a pooling service.

<u>A. Changes to Availability Section</u>

Q. Can you describe the proposed changes to the availability section of the transportation service tariff?

A. Yes. The Company proposes to make service under the revised transportation tariff available to any commercial or industrial customer which uses 100,000 Ccf or more of natural gas per year. This will allow any commercial or industrial customer served on the Large Firm General Service tariff or the Interruptible Gas Service tariff to receive transportation service. The availability section will also note that this rate schedule is offered as a companion to the customers' existing sales rate schedules: Large Firm General Service and Interruptible Gas Service. This transportation rider will replace all current transportation tariffs in Areas B, K, S, P and U.

Q. Why is the Company proposing to make the described changes to the availability section of the transportation tariff?

A. This will clarify that those transportation customers who meet the eligibility requirements described in the availability section will qualify to receive the additional services offered by the Company hereinafter described, such as the pooling service, as well being subject to the cash-out, scheduling fee and operational flow order provisions.

<u>B. Cash-Out Procedures</u>

Q. Can you describe the new cash-out provision of the transportation tariff the Company proposes to implement?

A. The Company proposes to include provisions which will allow the Company to cash out monthly positive and negative transportation imbalances based on either the highest or lowest index price for the respective Connecting Pipeline Company for any week published in *Natural Gas Week*. The provisions will also stipulate a tiered rate structure which increases or decreases the cash out price based on the monthly imbalance percentage.

Q. What is the purpose of the proposed cash out provision?

A. This provision is designed to deter a transportation customer from taking gas in excess of the level it has delivered to the Company and which would have an adverse impact upon system supply. It is also designed to prevent a transportation customer from taking advantage of the volatile monthly swings in natural gas prices. For example, if a transportation customer has nominated 50,000 Mcf of natural gas for transportation and for which it has paid $8.00 per Mcf, but actually consumes 60,000 Mcf, then the customer has a negative transport imbalance of 10,000 Mcf which the Company must cover from its system supply. In the past, when natural gas prices were relatively stable from month to month, the Company would, in some rate areas, allow the customer's negative imbalance to roll to the next month and the customer would deliver sufficient quantities back into the Company's system through a positive imbalance to offset the previous month's negative imbalance with very minimal, if any, price differential. However, if the Company, in today's volatile market, is required to augment system supply to offset a transportation customer's negative imbalance by purchasing gas at $12.00 per Mcf one month and then the customer offsets the negative imbalance the next month through a positive imbalance effected through purchasing gas at $8.00 per Mcf because of a dip downward in the succeeding month's market price, then the result is a disparate impact on system supply customers who have, in effect through the purchased gas adjustment mechanism, financed a $4.00 price differential for the transport customer's negative imbalance. The cash-out provision forces transport customers to balance their loads and to pay the costs resulting from the failure to do so outside of the tolerance.

C. Scheduling Fees

Q. Can you describe in more detail the daily scheduling fee provisions the Company proposes in the transportation tariff?

A. The Company proposes to add daily scheduling fees for any daily imbalance in excess of a 10% tolerance. The daily scheduling fee rate will be calculated based on the Company's cost for all storage services used in providing for daily balancing. These provisions are designed to pass on the costs of storage services to those transportation customers benefiting from the service and to offset the costs of storage incurred by the Company's rate payers.

Q. How are the scheduling fees calculated?

A. Because the Company's costs associated with storage will vary from time to time, a predefined rate per volumetric unit of gas would not be flexible enough to account for cost increases or decreases. As a result, the Company proposes to implement a daily scheduling fee which is based upon the following formula:

([annual storage demand charges/MDWQ]/365) + (annual storage capacity charges/total capacity) + average injection and withdrawal costs

Q. Does the Company use this formula in any other jurisdictions for purposes of setting daily scheduling fees?

A. Yes. This same formula is used by the Company in Georgia.

Q. Is the formula set out in the new transportation service tariff sheets you are sponsoring?

A. Yes.

D. Operational Flow Orders

Q. Can you describe in more detail the operational flow order provisions the Company proposes in the transportation tariff?

A. The Company proposes to include provisions which will allow it to issue an operational flow order that will require a transportation customer to take delivery of an amount of natural gas that is no more or no less than the daily amount being received from the Connecting Pipeline Company for the customer's account. Any daily amount delivered to the customer that is more or less than the amount received by the Company from the Connecting Pipeline Company for the customer's account outside of a 5% daily tolerance will be penalized at a rate of $25 per dekatherm, plus the *Gas Daily* index price for the respective Connecting Pipeline Company.

Q. What is the purpose of the operational flow order?

A. To deter transportation customers from taking deliveries of gas which would cause the Company, and concomitantly the Company's sales customers, to incur penalties from the Connecting Pipeline Company.

E. Pooling Service

Q. What is the pooling service proposed by the Company in the transportation tariff?

A. The pooling service will allow a third-party gas marketer, which has been appointed by a group of transportation customers served under this rate schedule, to aggregate the volumes of all customers in the pool for purposes of the cash out and operational flow order provisions of the tariff. The Company would enforce these provisions on the pool, rather than on each individual transportation customer. This process may reduce potential cash out charges and operational flow order penalties to customers in the pool by offsetting one customer's positive imbalance with another customer's negative imbalance.

F. Other Changes to Transportation Tariff

Q. Are there any other changes to the transportation tariff that should be noted in this testimony?

Yes, there are other changes in this transportation tariff which clean up many of the differences in the existing transportation tariffs of the different rate jurisdictions, such as:

- o Changing the cost of Electronic Flow Measurement (EFM) equipment from a stated cost (such as specified in the current tariff for the Automated Meter Reading Device (AMRD) in Area U as a stated cost of $3000) to language which reads "pay the cost of installation of, replacement of, and maintenance of electronic flow measurement (EFM) and verification equipment, including applicable income taxes." This will allow the Company to charge the actual costs associated with EFM to the customer requiring the service which may be more or less than a specified tariff amount. If the cost is more, then the customer requiring the service is responsible for all of those costs in lieu of only a portion thereof with the balance funded by the sales customers.
- o Changing the lost and unaccounted for gas language in the current tariffs from "percentage equivalent to the actual percentage for the proceeding 24 month period…" to two percent (2%).

- Establishing a Maximum Daily Quantity (MDQ) that a transportation customer will be allowed to nominate and have delivered into the Company's system.
- Stipulate the deadline for nominations to the Company to match the nomination deadline of the Connecting Pipeline Company.

The proposed tariff allows for both firm and interruptible transportation service across the Company's distribution system. Previously, only interruptible transportation service was available in Areas B, K and S.

V. MAIN EXTENSION POLICY

Q. What changes are being proposed by the Company regarding its Extension Policy?

A. The Company is proposing changes to the Extension Policy contained in the General Rules and Regulations. Currently, the company will run 150 feet of 2" main free of charge to a customer who plans to use natural gas for primary space heating. This practice stems from the average installation costs and the average customer consumption of many years ago. Labor and material costs have increased substantially since that time while the average annual consumption of all customers has continued to decline at a steady rate. The Company proposes to eliminate any allowance of free footage based strictly on consumption and replace that method by requiring a feasibility study for each and every project. The results of the feasibility study will guide the company's investment decision in this regard. This will ensure that the customer requesting the service will pay, or otherwise justify, the cost to serve them as well as eliminate the placement of the investment burden on existing customers and rate payers. The main extension policy, which is set forth in Revised Tariff Sheet Nos. 100-102 set forth in the Tariff Book filed as part of the MFR, has been amended to read as follows;

"The cost to the customer(s) of any gas main extended by the Company to supply new Customers will be based on the results of an individual feasibility study, considering the required investment, character and economic life of the load, and any other appropriate information.

No change is proposed for the remainder of the Main Extension Policy, including the allowance for service piping to new residential and commercial customers whose annual consumption is 500 Mcf or less.

VI. SPECIAL CONTRACTS

Q. Are you sponsoring any special contracts or agreements that Atmos has with any of its customers?

A. Yes. I will be sponsoring two special contracts currently in effect with two of the Company's industrial customers in the State of Missouri. Noranda Aluminum, which is located in New Madrid County, Missouri, is under contract with the Company as is General Mills located in Hannibal, Missouri.

Q. Are either of these customers affiliated with Atmos?

A. No.

Q. Describe the Company's contract with Noranda Aluminum.

A. The contract, as shown in CONFIDENTIALITY in Schedule RVK-1(HC), went into effect on January 1, 2003. The term of the contract is for a period of ten years and stipulates the general terms and conditions for the company to provide natural gas transportation service to Noranda.

Q. What is the purpose of Atmos' contract with Noranda Aluminum?

A. On April 20, 2000, an Order in Case No. GM-2000-312 was issued by the Missouri Public Service Commission (MPSC) which Authorized the Sale and Transfer of Certain Assets of Associated Natural Gas (ANG) to the Company. As part of that Order, the Company agreed to accept assignment of and otherwise honor the existing contract between ANG and Noranda Aluminum. The Order provided that Atmos would continue to interpret and follow the provisions of such contract in accordance with the past practices of ANG and Noranda. The Company adhered to this Order and, prior to the contract's expiration, entered into a new contract that was similar in nature to the ANG/Noranda agreement. The Company believes its current agreement with Noranda is fair and equitable for Noranda, the Company and the Company's other customer classes. In addition, Noranda is a major employer in the Southeast Missouri area and its business is very energy intensive in nature. Noranda competes against other aluminum plants across the country and those plants with the lowest energy costs are able to price their product in the most competitive manner. Therefore, the Company believes it is in the best interest of all Southeast Missouri residents for Noranda to minimize their energy costs, including natural gas transportation delivery costs, in order to remain competitive and sustain a viable operation.

Q. Are there any other reasons for the Company's special contract with Noranda?

A. Yes. The Company believes Noranda has the option to bypass the company's distribution system and obtain a direct connect to Texas Eastern Transmission. Although the Noranda plant is located approximately 17 miles from Texas Eastern, Noranda has the capital resources necessary to fund a project of this nature. If the Company were to charge the full tariff rate to Noranda, this investment would be an attractive option to them.

Q. **Describe the Company's contract with General Mills.**

A. The contract, as shown in CONFIDENTIALITY in Schedule RVK-2(HC), between Atmos and General Mills went into effect on March 1, 2005. The term of the contract is for a period of five years and stipulates the general terms and conditions for the company to provide natural gas transportation service to the General Mills plant in Hannibal, Missouri.

Q. What is the purpose of Atmos Energy's contract with General Mills?

A. The General Mills plant in Hannibal, Missouri is unique in that it is located adjacent to Panhandle Eastern's interstate pipeline. The meter location at the plant is located within 1400 feet of Panhandle's pipeline facilities. A direct connect to Panhandle is a viable alternative for General Mills and would require only a minimal investment. The Company felt is was necessary to enter into a special contract and offer a reduced rate in an effort to prevent bypass of our distribution system and retain their business.

Q. Why are the special contracts with Noranda and General Mills in the best interest of the Company's Missouri ratepayers?

A. Both contracts benefit the Company's Missouri ratepayers because, even with the discounted contract rates, both customers contribute substantially to the Company's fixed and variable costs in Missouri. Without the benefit of these customers, their transportation loads and associated revenue, more of the Company's costs would be paid by the Missouri ratepayers. Moreover, as pointed out previously in my testimony, the Company's ability to provide discounted transportation service to these customers enables them to more effectively control their energy costs, thereby making them more competitive in their respective industries and marketplaces. Support of healthy and competitive industry in Missouri benefits the State's economy and promotes continued growth.

Q. Does this conclude your testimony?

A. Yes.