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. GR-2006-0387

STAFF'S POST-HEARING BRIEF

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COMES NOW the Staff of the Missouri Public Service Commission (Staff) and, in accord with the Commission's June 2, 2006 *Order Concerning Test Year and True-Up and Adopting Procedural Schedule with Modifications*, and its January 4, 2007 *Order Granting Motion To Extend Filing Date*, which reset the filing of post-hearing briefs to January 19th, states:

Staff's Post-Hearing Brief addresses the issues of this case in accord with the Commission's June 2, 2006 *Order*, as those issues were set forth in the November 14, 2006 *Joint Issues List, List of Witnesses and Order of Cross-Examination* that was filed by the Staff on behalf of the parties to this case. The November 14th *Joint Issues List* identified certain issues as resolved among the parties. In addition to these identified resolved issues, Atmos Energy Corporation (Atmos or Company), the Staff, and the Office of the Public counsel (OPC), filed on November 29, 2006, their *Partial Non-Unanimous Stipulation and Agreement* (Stipulation), which sets forth more thoroughly these and other issues settled among the parties. On December 12, 2006, the Staff filed its *Memorandum in Support of the Stipulation*, and no party to this case filed a response.

ISSUES

I. Revenue Requirement

A. Level of Expense
B. Rate of Return / Return on Equity
C. Level of Revenue Excess / Deficiency

Staff will treat these three related issues together.

Staff and Atmos have reached agreement on a zero change to Atmos' revenue requirement. Staff witness Steve Rackers testified that "no change in cost of the service, on a total company basis, will still result in just and reasonable rates as a result of this case." (Exhibit 104, Rackers Rebuttal, p. 2, lns. 16-18) Atmos' witness Childers provided substantially similar testimony. (Exhibit 126, Childers Rebuttal, p. 3, lns. 13-18 ; Exhibit 127, Childers Surrebuttal, p.2, lns. 11-16)

Because Staff and Atmos have agreed on no change to Atmos' existing revenue requirement, either up or down, Staff has necessarily abandoned the return on equity ("ROE") position originally advocated by Staff witness Matt Barnes. Staff has chosen to not pursue any reduction of Atmos' revenue requirement for over-earning, just as Atmos has elected not to pursue any increase in its revenue requirement. Contrary to the somewhat hysterical position advocated by Public Counsel, Staff considers that the elimination of the risk of a rate increase – Atmos sought an increase of $3.396 million annually – is ample compensation for foregoing any rate reduction. Frankly, Staff doubts that any rate reduction would have been achieved if the matter were tried. (Rackers, Tr. 99-100; 106-7)

The centerpiece of this case is the rate design, discussed below. Staff and Atmos propose a common-sense rate design in which fixed costs are collected through fixed rate elements. Atmos is willing to forego a rate increase that it believes is otherwise justified in exchange for this new, common-sense rate design.

Public Counsel strenuously opposes this rate design, as is discussed in detail later in this brief. Public Counsel also argues that, if Staff's rate design is adopted, then Atmos' ROE must be reduced in order to reflect the fact that Atmos' shareholders will face significantly less risk. However, Public Counsel has not adduced competent evidence in support of its position. Rather, Public Counsel relies upon the lay analysis of Russell Trippensee. Trippensee presented a result based upon an utterly unorthodox methodology that the Commission should not even have received, much less rely upon. Section 490.065.3, RSMo, provides:

> The facts or data in a particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing and **must be of a type reasonably relied upon by experts in the field in forming opinions or inferences upon the subject and must be otherwise reasonably reliable.**

Both Matt Barnes for Staff and Dr. Murry for Atmos explained that Trippensee's method was not generally accepted in the field of financial analysis. (Exhibit 15, Murry Surrebuttal, p. 3, lns. 10-16; Exhibit 102, Barnes Surrebuttal, p.2, lns. 2-12)

For these reasons, Staff urges the Commission to adopt its zero change revenue requirement.

II. <u>Depreciation and Reserve Amortization</u>

<u>Depreciation</u>

Pursuant to 4 CSR 240-2.115(2)(C), because no parties objected within seven days to the Partial Non-Unanimous Stipulation and Agreement (Stipulation) filed on November 29, 2006, the Commission may treat this Stipulation as a unanimous stipulation and agreement. This Stipulation resolves the issues set in the paragraphs below:

(1) Atmos should continue using the current Commission-ordered depreciation rates. Atmos should use the Commission ordered Butler District depreciation rates for the plant accounts in the Greely District, which currently does not have Commission ordered depreciation

rates. These depreciation rates, agreed upon by the parties, are shown on Attachment B of the Partial Non-Unanimous Stipulation and Agreement filed November 29, 2006.

(2) The Company has not maintained sufficient plant data to enable the staff to perform a detailed depreciation analysis. Atmos is required to do so by Commission rule 4 CSR 240-40.040 (3): "Keep mortality records of property and property retirement as will reflect the average service life of retiring property and will aid the actuarial analysis of the probable service life of annual additions and aged retirements when implementing the provisions of Part 201 Income Accounts 403.B. and paragraph 20,422.403.B." This has been an ongoing problem which Atmos has agreed to resolve promptly. Staff recognizes that Atmos, particularly its predecessor companies Greeley Gas Company, United Cities Gas Company, and Associated Natural Gas Company, have had past problems keeping adequate plant records that meet the Commission's requirements. The Company agrees to meet with the appropriate Staff and OPC members to present the Company's plan for updating the vintage dates and coming into compliance with the Commission's rules. The planning process that should be used is detailed on page 5, paragraph B of the Partial Non-Unanimous Stipulation and Agreement filed November 29, 2006.

<u>Reserve Amortization</u>

Staff recommends that, as a whole, the annual depreciation accrual should be reduced by approximately \$591,000. Staff has recommended this approach in numerous past cases as a reasonable method of adjusting a depreciation reserve. This approach is implemented by the Company entering a negative amortization of \$591,000 to the depreciation reserve account 108. This provides an immediate benefit to Atmos' customers by lowering the Company's depreciation expense to a level Staff believes is appropriate. Although there might be different methods of achieving the same goal, with this approach, future rates to customers will be less than if the Staff attempted to reflect the negative amortization in lower depreciation rates. (Exhibit 109, Gilbert Surrebuttal, p. 2, ln. 23 and p. 3, lns. 1-4.) This method of amortization has often been used by both Staff and companies to offset depreciation over and under accruals in reserve account 108. (Tr. Vol. 7, p.189, lines 15 through 18.) In this instance, the amortization would offset an over accrual to the depreciation reserve. In addition this amortization does not cause any harm to past, present, or, future ratepayers or shareholders (Exhibit 109, Gilbert Surrebuttal, p. 3, lns. 4 -6 and lns. 18-21 and p. 4, lns. 1-2.)

III. Rate Design

A. Rate Structure for Residential, Small, and Medium General Service

B. Rate Structure for the Small General Service (SGS) Rate (including the Medium General Service Rate if the Small General Service Class is Split)

Introduction

Staff's fixed delivery charge is a paradigm shift from traditional two part rate design because, under Staff's proposal, all non-gas margin costs are recovered in one fixed monthly charge. This type of fixed delivery charge is often termed a "straight fixed variable" rate design. (Tr. Vol. 9, p. 694, ln 20 to p. 695 ln 5; Tr. Vol 7, p. 85, lns 4-12).

Non-gas margin costs make up only a portion of a residential customer's bill. The actual gas cost portion of the bill, called the PGA, makes up the rest, and for an average customer, this is about 80% of the total. (Tr. Vol. 7, p.78 ln 8-15).

Under the traditional rate design, residential non-gas margin costs are collected using both a monthly customer charge, which does not vary with usage, and a volumetric charge levied on each CCF consumed. (Tr. Vol. 8, p. 317 lns 17-22) OPC supports this "two part" rate design, called the "status quo". (Tr. Vol. 9, lns 1-5).

The Staff believes OPC's "status quo" rate design unfairly penalizes two discrete residential customer groups. First, the volumetric component of the traditional rate design results in higher-use residential customers paying a larger amount than lower-use customers – a difference in payment that is NOT supported by cost-causation factors. Second, the current, status quo rate design results in residential customers in neighboring districts paying vastly different amounts, even though they are receiving the same service from Atmos.

Under Staff's proposed fixed delivery charge, all of Atmos' non-gas margin costs, termed the "cost of service", are collected in a fixed monthly charge. Each of Atmos' three service areas, Western Missouri (WEMO), Northeast (NEMO), and Southeast (SEMO), will have a unique fixed delivery charge that is based, per the Stipulation and Agreement, on the residential customers' current revenues within that geographic service area[1].

Staff's proposed fixed monthly delivery charges, based on stipulated billing determinants, are shown on Staff Exhibit 137 as follows:

SEMO (includes Neelyville)	\$13.92 / month
WEMO (Butler and Greeley)	\$19.43 / month
NEMO (Kirksville; Palmyra; Hannibal; Canton; Bowling Green)	\$20.61 / month

How the "Status Quo" Rate Design treats higher usage customers unfairly

The current rate design, with its volumetric component, results in higher-use residential customers paying more, *on the margin*, than lower-use residential customers. Staff finds no cost basis on which to charge similarly situated residential customers different non-gas margin costs, and believes that the usage difference between a customer classified as high-use, and one classified as low-use, is negligible. (Exhibit 112, Ross, Rebuttal, p. 7, lns. 11-16) The Staff contends there is no difference in the utility's cost to serve high-use and low-use customers.

[1] Staff Witness Tom Imhoff performed the Class Cost of Service study (Imhoff Direct p. 3-8). The parties agreed to no revenue shifts among the classes and to billing determinants (Attachment A, representing the weather-normalized class test year revenues) in the Partial Non-Unanimous Stipulation and Agreement filed November 29, 2006.

"…The same plant investment must be made for both users, and there will be no difference in billing, meter-reading, and other expenses." (Exhibit 113, Ross Surrebuttal, p. 7, lns 7-8).

The rational investment decision-making of the utility is a second reason that high- and low-usage residential customers cause the utility to incur the same costs. Residential customers can easily change their desired end-use of natural gas. For example, someone using gas only for cooking today might decide to invest in a gas furnace and water heater at some point in the future. (Exhibit 112, Ross, Rebuttal, p. 7, ln. 23 – p. 8, ln. 8). It would be imprudent for the utility to not include this possibility in its planning. Accordingly, the utility makes plant and equipment decisions based on the full range of a residential customer's possible usage, rather than the customer's specific current end-use. (Exhibit 112, Ross, Rebuttal, p. 7, ln 23-p. 8 ln 8)

Finally, a utility incurs the same expenses to serve a customer regardless of whether the customer uses 1 Ccf per year or 1000 Ccf per year, because bills must be mailed, meters read, equipment maintained, etc. (Exhibit 110, Ross, Direct, p. 14, lns 5-10)

Rates are set on the basis of an average customer's normalized usage, which means that a customer using exactly that amount will pay the true cost of service. Under the "status quo" rate design advanced by Public Counsel, customers using more gas pay more than the true cost to serve them; customers using less, pay less than their true cost of service. This is unfair. Staff's proposal is designed to correct this unfairness.

<u>How Staff's Proposed Fixed Delivery Charge corrects this inequity</u>

Under Staff's fixed delivery charge, each Atmos customer in a particular service territory will pay the same for residential gas service, regardless of how much gas that customer uses. For customers using more than the normalized average annual gas usage, they will see an increase, on an annual basis, of a few dollars in the summer months, offset by an even greater decrease in gas bill during the winter months. These higher-use customers will see an overall *lower* annual bill than they will if OPC's "status quo" rate design proposal is adopted. Customers using less than the normalized average usage will see a small dollar increase in the summer months, and depending on the customers' total gas usage levels, might also see an increase in the winter months. (Exhibit 113, Ross Surrebuttal, p. 5, lns 6 -19).

How the "status quo" rate design treats customers in neighboring districts unfairly

Atmos' Missouri operations is an amalgamation of 3 separate "legacy" companies, formed over a period of time, and spread across 3 geographic service areas (termed NEMO, SEMO, WEMO). The sheer complexity of the rates and tariffs set long ago in these 7 districts, belonging to 3 former companies, in 3 diverse geographic areas, boggles the mind. Such historical complexities render it nearly impossible to explain to Atmos' customers why everyone pays something different for their cost of service (the non-gas margin costs).

Greeley Gas Company (in WEMO area) was purchased by Atmos in 1993. Its rates were set in 1993 as part of an application case. (Exhbit 110, Ross Direct, p. 1 ln 29 to p. 2 ln 3; Tr. Vol. 8, p. 319, lns 14 – 16)

United Cities Gas Company (UCG) was purchased by Atmos in 1997. The largest district of UCG includes Hannibal, Canton, and Bowling Green. Before Atmos bought UCG, UCG had acquired Palmyra district from the company that is now Missouri Gas Energy. UCG also owned and operated a district in SEMO area called Neelyville. Legacy UCG operations of Atmos were located in *both* NEMO and SEMO areas. (Exhibit 110, Ross Direct, p. 2 lns 4-12) The last rate case governing UCG Missouri properties was filed in 1994 and implemented in 1995. (Exhibit 1, Paris Direct, p. 5, lns 10-12).

Associated Natural Gas Company (ANG) was purchased by Atmos in 2000. The ANG Missouri properties were also geographically separated. One ANG district included the area surrounding Butler, Missouri (part of WEMO area). ANG also had operations in the bootheel area called the SEMO district, and operations serving the Kirksville district located in the NEMO area. (Exhibit 110, Ross Direct p. 2, lns 13-20). ANG filed its last rate case for its Missouri properties (WEMO, NEMO, and SEMO areas) in 1997, and rates were implemented that same year. (Exhibit 1, Paris Direct, p. 5, lns 12-14).

Staff Exhibit 142 shows the current customer charge and gas volumetric charges for each of Atmos' seven "legacy" operating districts. The customer charge ranges from a low of $5.00/month in Greeley, to a high of $9.05/month in Palmyra. The volumetric gas charge ranges from a low of $.07495 per CCF in Palmyra, to a high of $.31920 per CCF in Greeley. This wide assortment of "historical" customer and volumetric charges, which are spread across seven districts, forces Atmos' customers to over-pay or under-pay their non-gas margin costs. The current charges do not reflect Atmos' true cost of providing gas service to its residential customers in the Company's three geographic service areas (NEMO, WEMO, and SEMO).

"This set up is not only administratively complex, but it is also unfair to customers, because it results in a large disparity in the amount customers in adjoining cities or counties pay for their margin, or non-gas costs". (Exhibit 110, Ross Direct, p. 3, lns 5-8) Ms. Ross further testified at hearing that no cost of service studies justify the 'old' rates, they were set "somewhere in a range of reasonableness." (Tr. Vol. 8, p. 320 lns 1-5)

Staff believes that the cost for Atmos to serve residential customers in neighboring districts, such as the combining of three adjoining northeast Missouri districts into one service territory, is about the same. As described above, Atmos is an amalgamation of three predecessor companies formed over a period of years that include seven "legacy" operating districts. Atmos does not buy equipment, such as meters or mains, in quantities intended to serve just one "legacy" district. Atmos service employees serve all of Missouri, in each of its geographical service areas. Corporate overhead expenses associated with serving a residential customer do not distinguish what “legacy” district that customer lives in. While there may be some difference in costs due to the vintage of the distribution equipment in various “legacy” districts at any given point in time, the Company’s cost to provide service today to a geographical area do not differ. (Exhibit 112, Ross Rebuttal, p. 2 lns. 3-18)

For the Company to make the attempt to collect and break out its costs to serve each of seven “legacy” districts is unnecessary - particularly in light of the reasonableness of combining these seven districts into their natural geographic service area. (Exhibit 112, Ross Rebuttal, p. 2 lns. 14-18). Moreover, the Company informed Staff that the cost of meters, regulators and service lines is the same for all districts. Also, when a customer calls Atmos customer service, the call is first answered by a Company representative located in one of three out-of-state call centers. If that call cannot be addressed, then it is routed to one of seven Missouri call centers which serve the surrounding area. These calls are routed without regard for the predecessor company which served that area 10 years ago. Related billing and customer service costs do not vary among the Company’s current seven districts. (Exhibit 112, Ross Rebuttal, p. 3, lns. 5-6 and 11-22)

Staff contends the only fair policy is one where no customer subsidizes another – all residential customers in a geographic area should share equally in paying the true cost of service in the form of a fixed delivery charge. Public Counsel disagrees.

Public Counsel, by steadfastly refusing to accept today’s cost realities, prefers to make some customers pay more than their fair share, and others to pay less. By so doing, the Public Counsel imposes this financial injustice on its clients – all because Public Counsel won’t recognize the invalidity of historic “embedded” costs of legacy companies, or accept today’s cost realities. Public Counsel can’t let go of the obsolete, antiquated “traditional” rate designs that are holdovers from 3 non-existent companies that operated some 10 to 14 years ago in seven different districts located in three geographical service areas. Now is the time for the Commission to right this wrong. Now is the time for this Commission to do away with the unfairness, complexity, and confusion of the past that haunts Atmos' customers today. This Commission should reject the "status quo" of OPC and approve Staff's fixed delivery charge rate design.

How OPC's "status quo" rate design impacts customers

Looking at Exhibit 142, at a usage level of 720 Ccf, Kirksville customers would pay annual non-gas margin costs of $138; Palmyra customers would pay $163; and, at the *same* usage and level of service, Hannibal/Canton/Bowling Green customers would pay a whopping $269[2]. This difference results from negotiated settlements that reflect past operational realities of predecessor companies that ceased operations some time ago. (Tr. Vol. 8 p. 319, ln 11 to p. 210 ln 5; p. 321 lns 1-20). If OPC prevails with its "status quo" rate design, the Hannibal / Canton / Bowling Green customers will continue to overpay for the same gas service provided by Atmos to their Kirksville neighbors.

Staff, on the other hand, believes the Hannibal / Canton / Bowling Green customers should not pay *nearly double* what their Kirksville neighbors pay for Atmos to provide gas service to their home. As Staff witness Ross testified at hearing "I can't believe that it costs about twice as much to serve a customer in the Hannibal /Canton/ Bowling Green district as it does to serve a customer in the Kirksville district." (Tr. Vol. 8, p. 321 lns 8-11).

OPC witness Barbara A. Meisenheimer contends it is appropriate for Hannibal / Canton / Bowling Green customers (using 720 CCF/year, a usage level chosen for purpose of comparison) to pay $106 *more* a year than the Kirksville customer pays for the same amount of gas – even though this cost differential results from past operational realities of predecessor companies.

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[2] These numbers are based on an annual bill of 720 CCF.

(Tr. Vol. 9, lns 1-24). Unbelievably, OPC contends it is right for some customers to pay substantially more than others because of "…the historic cost and other considerations that have occurred over time to result in the embedded cost." (Tr. Vol. 9, lns 8-10). The problem, however, is that the "historic" costs relied on by OPC cannot be located; even if they existed, it is doubtful that they could justify some customers paying significantly more than their neighbors pay for the same service from the same company.

This difference is present in all three service territories. Staff Exhibit 142 shows a comparison of bills for gas customers in Staff's proposed WEMO service territory. Butler customers now pay $213 / year non-gas margin costs. Greeley customers, on the other hand, pay $290/year non-gas margin costs for the same (720 CCF) amount of gas.

Finally, Staff Exhibit 142 shows bill comparisons for gas customers in the proposed SEMO service territory using an assumed annual level of 720 CCF. Neelyville customers now pay $269 / year non-gas margin costs. Neighboring SEMO district customers, on the other hand, pay $174 / year non-gas margin costs for the same (720 CCF) amount of gas.

<u>Why Staff proposes to consolidate the current seven districts into three service territories</u>

Staff proposes, for the purpose of setting non-gas margin rates, that Atmos' seven current districts be combined into three geographically distinct service territories, as discussed in detail both in the Rate Design issue above and the District Consolidation issue, paragraph VI., below:

NEMO (Northeast Missouri): combines "legacy" Kirksville, Palmyra, Hannibal / Canton / Bowling Green districts;

SEMO (Southeastern Missouri): combines "legacy" Neelyville and SEMO districts; and,

WEMO (Western Missouri): combines "legacy" Greeley and Butler/Rich Hill districts.

Atmos has adopted Staff's proposal to consolidate these seven "legacy" districts into three geographical service areas for the purpose of setting non-gas margin rates in this case. (Exhibit 6, Childers Rebuttal, p. 4, lns. 12-15).

<u>How Staff's proposed fixed delivery charge and district consolidation impacts the average customer's bill</u>

These bill impacts are described in detail on Staff Exhibit 137. This exhibit, developed by Staff witness Anne Ross, shows the dollar impact of Staff's fixed delivery charge rate design AND district consolidation proposal compared to the "status quo" design sponsored by OPC. Dollar impact is shown for customers with annual usage ranging from a low annual CCF usage of 200 up to 1000 CCF annually.

As a reference point, Staff witness Anne Ross calculated the annual normalized average residential gas usage for each geographic service area of Atmos. (Exhibit 113, Ross Surrebuttal, p. 5 ln. 22 to p. 6 ln. 1; and Staff Exhibit 142).

NEMO (Kirksville, Palmyra, Hannibal, Canton, Bowling Green)	836 CCF
WEMO (Butler and Greeley)	778 CCF
SEMO (includes Neelyville)	652 CCF

Looking at Staff Exhibit 137, the cost impact of Staff's proposals for customers in the NEMO district, compared to the "status quo" design, shows that Kirksville customers, who have an annual usage of 860 CCF, will pay $98.82 more in non-gas margin costs per year. That same customer in Palmyra will pay $74.26 more, while the Hannibal/Canton/Bowling Green customers will pay $57.09 *less* annual non-gas margin cost.

According to Staff Exhibit 137, the cost impact of Staff's proposals, compared to the "status quo" rate design, shows that Butler customers using 800 CCF / year, will pay only $5.53 / year more. Note that if they use 860 CCF, Butler customers will pay $5.24 / year *less* than what they pay today. Greeley customers (using 800 CCF / year) will pay $82.20/year *less* than what they are paying now.

Again, using Staff Exhibit 137, the cost impact of Staff's fixed delivery charge proposal of $13.92 / month, compared to the existing rate design, shows that Neelyville customers using 700 CCF / year, will pay $96.92/year *less* in non-gas margin costs. Old SEMO district customers using 700 CCF / year will pay $4.66 / year *less* non-gas margin costs.

How Staff's proposed fixed delivery charge and district consolidation impacts LIHEAP customer bills

The data analysis used to calculate LIHEAP customer impacts is contained in OPC Exhibit 206. Using data provided by Atmos, this exhibit demonstrates how low income residential customer actual gas usage (those customers on LIHEAP) compares to the total residential customer actual gas usage. Not surprisingly, LIHEAP residential customers tend to use measurably more gas than the combined customer average usage. For example, using Fiscal Year 2005 data, the percentage increase in gas usage of LIHEAP customers was calculated:

District	LIHEAP Average Customer Customer Usage (CCF)	All Customer Average Usage (CCF)	% above Average Usage
Kirksville	828	721	115%
P&U[3]	840	753	112%
Butler	864	705	122%
Greeley	804	753	107%
SEMO	624	599	104%

3 . This old district is a combination of Palmyra in the northeast corner of the state, and Neelyville in the southeast corner of Missouri. (Tr. Vol. 7, p. 219, lns. 13-15).

Even so, OPC witness Barb Meisenheimer acknowledges , though by understatement, the above LIHEAP customer usage findings when she responded to the question:

"**Q**. Have you performed an analysis in this case that compares low-income household use to average use per customer?

A. Yes. For each district, I compared the average LIHEAP customer use to the average customer use and found them to be very similar in every district." (Exhibit 186, Meisenheimer Surrebuttal p. 9, lns. 11-14). Indeed, a further review of OPC Exhibit 206 above shows LIHEAP consumer usage actually ranges from 104% of average in SEMO to 122% of average in Butler. Therefore, according to OPC's own analysis, these findings show LIHEAP customers actually use *more* gas than the average amount of gas used by all customers. Because under the "status quo" rate designhigher-than-average-use customers overpay their cost-of-service, low-income customers, which tend to use more gas than the average customer, are also overpaying their cost of service. Under Staff's proposed fixed delivery charge, these low-income customers will see a lower gas bill.

<u>More criticism of OPC's proposal to maintain the "status quo" rate design</u>

OPC's "status quo" rate design amplifies bill volatility and uncertainty by putting most of the non-gas bill in the winter months, when customers buy most of their gas for space-heating. This is when customers need help the most with their gas bills and can least suffer billing volatility and variability. Under Staff's fixed delivery charge, the non-gas costs are spread across the entire year, thereby reducing the peaks and valleys by a few dollars each month. (Exhibit 112, Ross Rebuttal, p. 9, ln. 10 to p. 10 ln. 9).

As to the impact of weather on billing under Staff's fixed delivery charge, "…customers benefit by having more certainty and less variability regarding their monthly bill regardless of the weather. Consequences of customer usage variations will be tied to the associated incremental gas commodity costs, without the distortion of volumetric distribution charges under a standard two-part rate." (Exhibit 4, Smith Surrebuttal, p. 5, lns. 3-8).

Under OPC's "status quo" rate design, the utility continues to have *no* incentive to promote conservation. This is because Atmos must recover a significant portion of its fixed costs through the volumetric charge tacked onto each unit of gas sales. Therefore, for Atmos to increase profit for its shareholders, the utility must sell *more* gas to its customers. (Exhibit 110, Ross Direct, p. 11, lns. 18-23).

<u>Customer education, energy efficiency and weatherization programs</u>

Staff and Atmos agree there will be a need to educate customers on:

- the true nature of service provided by the LDC, which is delivery of the gas,
- the fact that all residential customers have the same equipment, and cause the same costs, regardless of the amount of gas used, and,
- how such a rate design will affect customers' bills.

Atmos intends to increase its efforts at customer education through bill inserts, information on its website, and "question and answer" scripts for customer support agents. Furthermore, the Company will increase its efforts to educate customers on the benefits of budget billing using these same methods, as well as providing yearly reminders to customers on the requirements of budget billing. (Exhibit 6, Childers Rebuttal, p. 8 lns. 1-15)

In addition, Atmos has agreed to implement two energy assistance type programs geared to help consumers reduce their gas consumption. (Tr. Vol. 7, p. 22 lns 15-25). First, Atmos has agreed to provide $78,000 for a low-income weatherization fund that would be applied to roughly 30 households, at an average level of $2,600 per household. (Tr. Vol. 8, p. 346 lns 13-19). Atmos has also agreed to conduct a residential audit program at a reduced, company-subsidized rate of $25 per audit. (Tr. Vol. 8, p. 347 lns 13-17). These energy audits will be provided by Atmos as requested by their customers, with no upper limit on the number of customers that may participate. (Tr. Vol. 8, p. 348 lns 5-6).

As testified by Staff witness Anne Ross in support of programs promoting efficiency and conservation "Missouri does not have unlimited funds to finance these measures … it is going to take all of the stakeholders working together to provide the most efficient, effective use of the monetary and other resources that we do have…the LDCs have the most to offer due to their knowledge, their customer information database, and the relationships that they have with their customers and communities….As long as fixed costs are collected on a volumetric basis[under OPC's "status quo" rate design], compelling an LDC to actively promote conservation means that the Commission is compelling them to act contrary to their shareholders' interests…We have an opportunity in Missouri to align the interests of shareholders and customers". (Exhibit 113, Ross Surrebuttal, p. 11 ln. 18 to p. 12 ln. 7).

Though Staff advocates the fixed delivery charge rate design as a means to align customer and shareholder interest to accomplish any meaningful efforts at conservation, the Company remains in a position where it must serve its customers well in order to recover its costs. So states Atmos witness Gary Smith "While I agree that the Delivery Charge rate design [fixed delivery charge] addresses the concerns related to weather and declining customer usage…recovery of costs still depends on the sustained retention of customers."

<u>Staff proposes creating a Medium General Service tariff class by splitting the current Small General Service and Large General Service tariff classes.</u>

Under Staff's proposal, the new Small General Service class will apply to non-residential customers using 0 to 2,000 CCF per year. This breakpoint was chosen because customers using less than 2,000 CCF/year are served with the same meter/regulator and service line that serves the residential customer. (Exhibit 110, Ross Direct, p. 6, lns. 5-11) Approximately 80% of Atmos' current Small General Service customers use less than 2,000 CCF/year, and they will become part of the proposed new Small General Service Class. Because the proposed new Small General Service Class non-residential customers are about the same size as customers in the Residential Class, and are served by the same size equipment, and show weather-sensitivity similar to residential customers, Staff proposes that customers in the new Small General Service class pay the same fixed delivery charge proposed by Staff for residential customers. (Exhibit 110, Ross Direct, p. 5 ln. 5 to p. 6 ln. 19; Tr. Vol. 8, p. 353 ln. 15 to p. 254 ln. 9).

The proposed new Medium General Service class will include non-residential customers using from 2,000 to 75,000 CCF/year. Large General Service includes non-residential customers using from 75,000 to 200,000 CCF/year. (Exhibit 110, Ross Direct, p. 5, lns. 18-21) Staff recommends these classes, the proposed new Medium General Service class and the Large General Service class, remain under the traditional rate design. (Tr. Vol. 8, p. 354, lns 5-9). The Staff supports the rates proposed by Atmos witness Patricia Childers. (Exhibit 7, Childers Surrebuttal, Sched. PJC Surreb-1)

IV. Miscellaneous Charges

Activation Charges for Connection, Reconnection, and Transfer

The Staff and Atmos agree that single statewide rates for connection and reconnection services should be implemented. (Exhibit 114, Ensrud Direct, p. 4; Exhibit 10,Ellis Direct, p. 4). The rates proposed by the Staff are based upon actual costs rounded to the nearest whole dollar amount. (Exhibit 114, Ensrud Direct, p. 6, lns. 5-6). The Office of Public Counsel testified that the rates established by Staff witness Ensrud are appropriate if the Commission determines that uniform statewide rates will be allowed. (Exhibit 201, Meisenheimer Rebuttal, p. 38, lns. 13-16).

Late Payment

The late payment fee proposed by Atmos provides uniformity and consistency throughout Atmos' service areas and should be adopted by the Commission. No party filed testimony in opposition to Atmos' proposed late payment fee calculated by multiplying 1.5% times the outstanding balance.

Not Sufficient Funds (NSF)

There are costs associated with processing insufficient funds checks, which should be recouped under the concept that cost causer should be cost payer. (Exhibit 114, Ensrud Direct, p. 3, lns. 12-13). Atmos' insufficient funds charge should closely match the actual costs ($12.14) incurred for NSF checks. (Id.) Accordingly, the Commission should approve the $15 rate currently charged by Atmos to 75% of its customers, rather than the $30 charge proposed by Atmos in its testimony. Public Counsel does not oppose Staff's rate proposal for NSF checks if the Commission finds that uniform statewide rates for this service are appropriate. (Exhibit 201, Meisenheimer Rebuttal, p. 38, lns. 13-16).

Seasonal Reconnection

Seasonal disconnection customers seek to avoid paying costs when not using gas for heat. To dissuade this practice and prevent cost-shifting to customers who remain connected all year long, the Staff proposes a two-component reconnection charge. First, the customer should pay the traditional reconnection charge that includes the cost of dispatch and an Atmos employee going to the customer's premise to re-establish service. Second, the seasonal-disconnect customer should "make up" all missed delivery charges (to recover missed sunk and fixed costs) that occurred when the customer took a summer break from Atmos' service (Exhibit 114, Ensrud Direct, p. 18, lns. 6-12). Staff proposes a 12-month limitation applicable to the second component, regardless of the reason for requesting disconnection.

V. <u>Company PGA Tariffs Consolidation</u>

The Staff recommends consolidating the current *seven* separate PGA rates by pipeline or source of supply. Staff proposes to go from seven to *four* PGA rate districts, as follows:

1. Butler and Greeley
2. Hannibal/Canton, Bowling Green and Palmyra
3. Kirksville
4. SEMO and Neelyville

Staff's goal is to simplify and improve the PGA/ACA rate process by making it more efficient as a result of reducing the current number of filings made by Atmos. Staff proposes to accomplish this by identifying the PGA computation by pipeline or supply source. New, consolidated PGA districts have similar transportation rates and gas supply sources. Such consolidation is consistent with how AmerenUE currently files its PGA rate filings. (Exhibit 118, Imhoff Direct, p. 8 ln. 14 to p. 9 ln. 6).

As Staff witness Tom Imhoff testified at hearing, one company is currently doing all gas purchasing for each of the districts, and employing the same hedging program and strategy for Missouri. Butler and Greeley were combined into one district because their primary source of gas comes from the Mid Continent Basin. (Tr. Vol. 9, p. 664, lns 13 – 25; Tr. Vol. 9, p. 669 lns 1-4) As a result, the commodity costs are basically the same, even though the gas is being transported over two different pipelines. (Tr. Vol. 9, p. 667, lns 6-12). For the SEMO/Neelyville consolidated PGA district, Mr. Imhoff noted that NGP&L pipeline currently feeds both Neelyville and a part of SEMO as well, even though SEMO has 4 different pipelines feeding into it. (Tr. Vol. 9, p. 664, lns 20-25). For northeast Missouri (NEMO), there is no PGA consolidation. (Tr. Vol. 9, p. 677, lns 2-4).

At hearing, Mr. Imhoff also testified that Staff intends to have each individual (historic) district take care of their respective ACA balances to "zero them out". (Tr. Vol. 8, p. 279 lns 23-24). Atmos witness Pat Childers confirmed this when she testified "The PGAs are very close with the exception of the ACA factor, which will run for 12 months to recover or refund any over – or under-recovery. And if you just look at the PGAs without that ACA factor, they are, in fact, very close and considerably lower than the PGAs that were in effect previously." (Tr. Vol. 8, p. 242, lns 1-6).

VI. Company District Consolidation

Staff proposes, for the purpose of setting non-gas margin rates, that Atmos' seven current districts be combined into three geographically distinct service territories, as explained in detail in the Rate Design issue above:

NEMO (Northeast Missouri): combines "legacy" Kirksville, Palmyra, Hannibal / Canton / Bowling Green districts;

SEMO (Southeastern Missouri): combines "legacy" Neelyville and SEMO districts; and,

WEMO (Western Missouri): combines "legacy" Greeley and Butler/Rich Hill districts.

Staff believes that the cost for Atmos to serve similarly situated customers in neighboring districts, such as the combining of three adjoining northeast Missouri districts into one service territory, is about the same. As described above, Atmos is an amalgamation of three predecessor companies formed over a period of years that include seven "legacy" operating districts. Atmos does not buy equipment, such as meters or mains, in quantities intended to serve just one "legacy" district. Atmos service employees serve all of Missouri, in each of its geographical service areas. Corporate overhead expenses associated with serving a residential customer are indifferent as to the "legacy" district that customer lives in. While there may be some difference in costs due to the vintage of the distribution equipment in various "legacy" districts at any given point in time, the Company's cost to provide service today to a geographical area do not change. (Exhibit 112, Ross Rebuttal, p. 2 lns. 3-18)

For the Company to make the attempt to collect and break out its costs to serve each of seven "legacy" districts is unnecessary - particularly in light of the reasonableness of combining these seven districts into their natural geographic service area. (Exhibit 112, Ross Rebuttal, p. 2 lns. 14-18). Moreover, the Company informed Staff that the cost of meters, regulators and service lines is the same for all districts. In addition, when a customer calls Atmos customer service, the call is first answered by a Company representative located in one of three out-of-state call centers. If that call cannot be addressed, then it is routed to one of seven Missouri call centers which serve the surrounding area. These calls are routed without regard for the predecessor company that served the area 10 years ago. Related billing and customer service costs do not vary among the Company's current seven districts. (Exhibit 112, Ross Rebuttal, p. 3, lns. 5-6 and 11-22)

Atmos has adopted Staff's proposal to consolidate these seven "legacy" districts into three geographical service areas for the purpose of setting non-gas margin rates in this case. (Exhibit 6, Childers Rebuttal, p. 4, lns. 12-15).

VII. <u>Other Tariff Issues</u>

<u>Cash-out Policy</u>

The Cash-out provision allows transportation customers to resolve imbalances by cash payments instead of making up imbalances with gas volumes in kind. (Exhibit 114, Ensrud Direct, p. 7, lns. 8-10). This proposal would replace Atmos' existing policy of charging $15.00 per MCF when the balance is negative, or absorbing the gas when the imbalance is positive. Whether the imbalance is positive or negative, a transportation customer will pay a price determined by a formula that uses a published industry price. If the imbalance is greater than 5%

of the monthly contract volume, the price will be inflated or deflated by an index referenced in the tariff. This standardized policy would replace Atmos' current practice of applying varying policies. Public Counsel' only opposition noted in testimony is that large transportation customers would be allowed to create pools that would allow pool members to offset imbalances. To Staff's knowledge, the only such customers on Atmos' system that could pool are the school districts, which are allowed to pool by statute.

Third Party Administered Pools for Cash-outs

The Cash-out provision allows transportation customers to resolve imbalances by cash payments instead of making up imbalances with gas volumes in kind. (Exhibit 114, Ensrud Direct, p. 7, lns. 8-10) This proposal would replace Atmos' existing policy of charging $15.00 per MCF when the balance is negative, or absorbing the gas when the imbalance is positive. Whether the imbalance is positive or negative, a transportation customer will pay a price determined by a formula that uses a published industry price. If the imbalance is greater than 5% of the monthly contract volume, the price will be inflated or deflated by an index referenced in the tariff. This standardized policy would replace Atmos' current practice of applying varying policies. Public Counsel's only opposition noted in testimony is that large transportation customers would be allowed to create pools that would allow pool members to offset imbalances.

To Staff's knowledge, currently the only such customers on Atmos' system that could pool are the school districts, which are allowed to pool by statute. Section 393.310, RSMo. 2000.

Level of Lost and Unaccounted Gas (L&U)

The issue of determining the appropriate level of lost and unaccounted for gas has been settled among the parties and is addressed in the Partial Non-Unanimous Stipulation and Agreement (Stipulation) on page 5. Accordingly, under 4 CSR 240-2.115(2)(C), because no parties objected within seven days to the Stipulation, filed on November 29, 2006, the Commission may treat this Stipulation as a unanimous stipulation and agreement.

Economic Development Gas Service Rider (EDGS)

The Economic Development Gas Service Rider (EDGS) is designed to encourage industrial customers to use Atmos' natural gas service by providing limited discounts. After careful consideration and review, the Staff finds that this proposal is not detrimental to Atmos' customers. (Exhibit 114, Ensrud Direct, p. 6, lns. 15-17). Public Counsel's testimony that the EDGS would force residential and small customers to subsidize industry discounts is unsupported and contrary to Staff's analysis indicating that generally, a new industrial customer will generate revenues and defray costs beyond the initial discounted amounts. (Exhibit 116, Ensrud Surrebuttal, p. 10, lns. 4-9).

Mains Extension Policy

The main extension policy will apply to a limited number of customers such as developers building new homes. (Exhibit 114, Ensrud Direct, p. 12, lns. 17-19). Instead of receiving 150 feet of main free, Atmos proposes that the costs of the extension be calculated using a computer model to estimate the cost of the main and the revenue that will be produced. (Tr, Vol. 9, p. 633, lines 11-23). This proposal will better match projected costs to projected revenues and avoid subsidization of new customers. Public Counsel's opposition suggesting that new residential customers will be subject to a "feasibility review" is without support. Indeed, the initial customer would be compensated by the utility when additional customers come on to Atmos' system. (Exhibit 114, Ensrud Direct, p. 13, lns. 13-20 and p. 14, lns. 1-4).

LIST of RESOLVED ISSUES

As stated in the *Joint List of Issues*, the parties identified the following issues as being resolved:

1. Billing Determinants
2. Research and Development Rider
3. Noranda (all issues)
4. Class share of revenue by district
5. Uncollectables in the PGA
6. Customer Service Issues
7. Class Cost of Service

The Partial Non-Unanimous Stipulation and Agreement submitted by Atmos, Staff, and OPC on November 29, 2006, and Staff's Memorandum in Support of the Stipulation subsequently filed on December 12, 2006, addressed the following issues as resolved among the parties: Billing Determinants; Other Post-Retirement Benefits (OPEB) Contribution; Class Share of Revenue by District / Class Cost of Service; Customer Service Requirements and Reporting; PGA Minimum Filing Requirements; Depreciation Record Keeping and Reporting; and Gas Loss Reporting.

CONCLUSION

The Staff urges the Commission, based on the competent and substantial evidence discussed in this Brief and contained in the case record, to adopt the positions advocated by both the Staff and Atmos, and to reject the positions sponsored by OPC on the contested issues of this case. Now, particularly in the context of this *zero* revenue rate case, is the time to right old wrongs. Now is the time for the Commission to correct the unfairness and inequities of the "status quo" embraced by OPC. There is no better time than now for the Commission to "level the playing field" and to place all Atmos' Missouri customers on an equal footing by implementing Staff's proposed fixed delivery charge and positions litigated in this matter.

WHEREFORE, the Staff submits its Post-hearing Brief as directed by Commission Order and prays the Commission adopt its positions on the above-stated issues.

Respectfully submitted,

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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 19th day of January 2007.

/s/ Robert S. Berlin