

**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)	Case No. GR-2006-0387
Service in the Missouri Service Area of)	Tariff No. YG-2007-0602
the Company.)	

STAFF RESPONSE IN OPPOSITION TO OFFICE OF PUBLIC COUNSEL'S

MOTION TO REJECT TARIFF

COMES NOW the Staff of the Missouri Public Service Commission (Staff), pursuant to the Commission's *Order Directing Filing Of Tariff Responses* and in response to the Office of Public Counsel's *Motion To Reject Tariff*, states as follows:

1. On March 13, 2007, the Commission issued its *Order Directing Filing of Tariff Responses* (Order) directing that any responses to the Staff recommendation and any responses to any objections shall be filed no later than March 23, 2007. To that end, on March 19, 2007, the Staff timely filed its *Staff Recommendation Regarding Compliance Tariff Sheets* (Recommendation) and the Office of Public Counsel (OPC) filed, the same day, its *Motion To Reject Tariff* (Motion). As the result of its review, Staff's Recommendation determined that Atmos Energy Corporation's (Atmos) tariff was in compliance with the Commission's *Report and Order*, which was effective on March 4, 2007. The Staff recommended the Commission approve the compliance tariff filed by Atmos.

2. In its Motion, OPC has recited the same arguments it made in its *Application for Rehearing*, which it filed on March 2, 2007. OPC's Motion argues "Until such time that the Commission rules upon Public Counsel's motion, it is premature to allow the tariff implementing the *Report and Order* to go into effect." OPC seeks to stay the Commission's *Report and Order* by asking the Commission to reject the Atmos compliance tariff which implements the Commission authorized rate design. However, OPC's Motion merely restates its arguments opposing the rate design that the Commission has authorized. Moreover, OPC's Motion offers nothing to support how Atmos's compliance tariff fails to comply with any explicit provisions of the *Report and Order*. OPC seeks to reject the tariff simply because it disagrees with the *Report and Order*.

3. Even though the Commission has not yet addressed OPC's *Application for Rehearing*, the filing of that application or any other motion which seeks to stay the enforcement of the *Report and Order*, is prohibited by statute and Commission rule. Section 386.500.3 RSMo 2000 provides that:

An application for a rehearing shall not excuse any corporation or person or public utility from complying with or obeying any order or decision or any requirement of an order or decision of the commission, or operate in any manner to stay or postpone the enforcement thereof except as the commission may by order direct.

Commission Rule 4 CSR 240-2.160 (3) states:

The filing of a motion for reconsideration shall not excuse any party from complying with any order of the commission, nor operate in any manner to stay or postpone the enforcement of any order, unless otherwise ordered by the commission.

4. Atmos filed its tariff in compliance with the Commission's *Report and Order*, consistent with the Commission's guidance and ordered paragraphs. OPC's *Motion to Reject*

Tariff impermissibly attempts to stay an order of the Commission. Therefore, OPC's Motion must be dismissed by the Commission.

WHEREFORE, for the reasons stated above and for reasons previously stated in Staff's March 19th Recommendation, the Staff 1) renews its recommendation that the Commission cancel Atmos P.S.C. MO. No. 1 tariff and approve Atmos P.S.C. MO. No. 2 tariff in its entirety; and 2) recommends that the Commission issue an order dismissing OPC's *Motion to Reject Tariff*.

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 23rd day of March 2007.

/s/ Robert S. Berlin