

FILED³

In the Matter of Atmos Energy)
Corporation's 2010-2011 Purchased Gas) Case No. GR-2011-0161
Adjustment and Actual Cost Adjustment)

**MOTION FOR WAIVER OF TARIFF PROVISIONS
RELATED TO THE FILING OF REVISED ACA FACTORS
AND MOTION FOR EXPEDITED TREATMENT**

1. Atmos is a corporation duly organized, validly existing and in good standing in all respects under the laws of the State of Texas and Commonwealth of Virginia, with its principal office and place of business at 5430 LBJ Freeway, Dallas, Texas 75240. Atmos is authorized to conduct business in the State of Missouri and is engaged in the distribution and retail sale of natural gas in those areas of Missouri certificated to it by the Commission.

2. A certified copy of Atmos' certificate of authority to do business as a foreign corporation in Missouri was filed with the Commission in Case No. GR-2006-0387, and said document is incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G) and made a part hereof for all purposes. Atmos is a "gas corporation" and a "public utility" as those

terms are defined in Section 386.020 of the Revised Statutes of Missouri and as such is subject to the jurisdiction of the Commission as provided by law.

3. Atmos may have pending actions against it involving customer service or rates having occurred within three (3) years from the date of this Motion in certain of the jurisdictions in which it provides service, but none in Missouri. Atmos has no annual report or assessment fees that are overdue.

4. Simultaneously with the filing of this Motion, Atmos is filing a revised tariff sheet which is designed to discontinue Atmos' Actual Cost Adjustment ("ACA") factors for the WEMO and NEMO Districts. The tariff has an issue date of January 18, 2011, and an effective date of February 1, 2011. Since Atmos has already filed an ACA factor during the last twelve months, it may be necessary for the Company to obtain a waiver to allow it to file another ACA factor for these districts during the same twelve month period. Atmos' tariffs also provide that such proposed changes should be filed with effective dates that allow the Commission Staff ten (10) business days to review the tariffs.

5. At this time, the Company believes that the ACA balance for the WEMO District will be in an under-recovered state by March 1, 2011. The Company also believes that it will be approaching a zero balance for the NEMO District by March 1, 2011 and would like to discontinue the ACA Factor in order to avoid an under-recovered state. The Company must file a tariff with an effective date of February 1, 2011, to begin billing the new rates at the beginning of March. This will ensure that all service taken prior to the effective date will be billed at the rate that was in effect in that month. As a result, it is now appropriate to discontinue these ACA factors to become effective on February 1, 2011. Accordingly, Atmos respectfully submits that

good cause exists for granting the relief requested herein. No other public utility will be affected by such waiver.

6. The Commission granted similar waivers to allow the elimination of the separate Old Butler District, Kirksville, and Neelyville ACA factors when these factors were nearing a zero balance. See *Order Approving Revised ACA Factor And Granting Waiver Of Tariff Provisions*, Case No. GR-2008-0364 (February 25, 2009); *Order Approving Revised ACA Factor, Granting Waiver Of Tariff Provisions, And Approving PGA Changes*, Case No. GR-2008-0364 (April 29, 2009); *Order Approving Revised ACA Factors And Granting Waiver Of Tariff Provisions*, Case No. GR-2009-0417 (July 29, 2009). See also *Order Approving Revised ACA Factor and Granting Waiver of Tariff Provisions*, Case No. GR-2009-0417 (September 30, 2009).

7. In order that the tariff may become effective as soon as possible to reflect Atmos's discontinuance of the ACA factor for the WEMO and NEMO Districts, Atmos respectfully requests that the Commission issue its Order Approving Tariff and allow the tariff to go into effect on February 1, 2011, and grant it a waiver from any tariff provisions that would otherwise limit the filing of another ACA factor for these districts at this time. This will permit Atmos to implement the change in its ACA factor in an orderly fashion with its March billing cycle.

8. Pursuant to 4 CSR 240-2.080(16), the Company requests that the Order Approving Tariff be effective no later than February 1, 2011. In addition, since the ACA balances will be near zero or in an under-recovered state on that date, expedited approval of the revised tariff sheet is requested. Delay in the approval will cause a greater under-recovery of gas costs for these districts. This pleading is also being filed as soon as it could have been once it

became apparent that the ACA balances will be near zero or an under-recovered balance on March 1, 2011.

9. While it does not appear that Atmos' PGA/ACA-related filings are the type of case intended to be covered by Commission Rule 4 CSR 240-4.020(2), Atmos previously filed its Notice of Intended Case Filing and Application for Waiver in this proceeding on December 2, 2010.

WHEREFORE, Atmos Energy Corporation respectfully requests that the Commission, on an expedited basis, authorize its tariff to become effective on February 1, 2011, and grant it a waiver from any tariff provisions that might not allow for the change of the ACA balances at this time.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed, mailed or hand-delivered this 18th day of January, 2011, to:

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/s/ Larry W. Dority

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