

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 24th day of
February, 2010.

In the Matter of the PGA/ACA Filing of Atmos)
Energy Corporation for the West Area (Old Butler),)
West Area (Old Greeley), Southeastern Area (Old)
SEMO), Southeastern Area (Old Neelyville),)
Kirksville Area and the Northeastern Area)

File No. GR-2008-0364

ORDER ADOPTING PROCEDURAL SCHEDULE

Issue Date: February 24, 2010

Effective Date: February 24, 2010

Staff completed its review of Atmos Energy Corporation's 2007-2008 Actual Cost Adjustment and recommends the company make certain adjustments to its ACA balance. Atmos disagrees with some of Staff's adjustments and requests a hearing to resolve the dispute. At a prehearing conference held on February 11, 2010, the presiding officer directed the parties to file a proposed procedural schedule. Staff and Atmos could not agree on a procedural schedule and, on February 18, filed competing proposals.

Atmos proposed that all parties file direct testimony on March 12, rebuttal testimony on April 16, and surrebuttal testimony on May 14. Atmos would have set an evidentiary hearing on June 15-17. Staff countered with a proposal that would have Atmos file its direct testimony on March 12. Staff would then file rebuttal testimony on June 14 and Atmos would file surrebuttal testimony on July 16. Staff would delay the hearing until September 14-17, which is after the hearing on Atmos' pending general rate case. Staff explained that it wants the extra months between the filing of direct and rebuttal testimony

to conduct discovery relating to the positions revealed in Atmos' direct testimony. The only other party is Public Counsel and it did not submit a proposed procedural schedule.

Aside from the different procedural dates proposed by Atmos and Staff, Staff's proposed schedule indicated that Staff did not intend to file direct testimony, contending it has already supported its challenge to Atmos' ACA in its verified recommendation. On February 22, Atmos filed a response to Staff's proposed procedural schedule in which it accepts the procedural dates proposed by Staff, with the modification that Staff be directed to file testimony simultaneously with Atmos. Staff filed a reply on February 23 in which it contends it does not need to file direct testimony because Atmos has the burden of proving that the affiliate transaction at issue in this case is prudent.

Given Atmos' acceptance of the procedural dates proposed by Staff, the Commission will establish that agreed upon schedule. Staff and Atmos still disagree about the burden of proof and about which parties have the responsibility to file direct, rebuttal, and surrebuttal testimony. At this point, the Commission is only establishing a procedural schedule and is not prepared to resolve questions surrounding the burden of proof. For purposes of the procedural schedule, the Commission will order Staff to file direct, rebuttal and surrebuttal testimony, but this decision should not be taken as a determination about who has the burden of proof.

Staff also proposed conditions that would require the parties to expedite the submission of workpapers and data request responses. Given the extended procedural schedule agreed to by the parties, such conditions are not necessary and will not be ordered.

THE COMMISSION ORDERS THAT:

1. The following procedural schedule is established:

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| Direct Testimony by all parties | - | March 12, 2010 |
| Rebuttal testimony by all parties | - | June 14, 2010 |
| Joint List of Issues, | - | June 25, 2010 |
| Statements of Position | - | June 30, 2010 |
| Surrebuttal Testimony by all parties | - | July 16, 2010 |
| Order of Witnesses, Order of Cross-Examination, Order of Opening | - | September 3, 2010 |
| Evidentiary Hearing | - | September 14 to September 17, 2010, beginning at 8:30 a.m. |

2. The parties shall comply with the following procedural requirements:

- (A) Testimony shall be prefiled as defined in Commission Rule 4 CSR 240-2.130.

All parties must comply with this rule, including the requirement that testimony be filed on line-numbered pages.

(B) The parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of cross-examination for each witness. The list of issues should be detailed enough to inform the Commission of each issue that must be resolved. The Commission will view any issue not contained in this list of issues as uncontested and not requiring resolution by the Commission.

(C) Each party shall file a simple and concise statement summarizing its position on each disputed issue.

(D) All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(E) If an exhibit offered into evidence has not been prefiled, the party offering it must bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Judge, and all counsel.

(F) All parties shall provide copies of testimony (including schedules), exhibits, and pleadings to other counsel by electronic means and in electronic form, essentially contemporaneously with the filing of such testimony, exhibits, or pleadings where the information is available in electronic format (.PDF, .DOC, .WPD, or .XLS). Parties are not required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.

(G) The parties shall make an effort to not include highly confidential or proprietary information in data request questions. If highly confidential or proprietary information must be included in data request questions, the highly confidential or proprietary information shall be appropriately designated as such pursuant to Commission Rule 4 CSR 240-2.135.

3. The hearing shall be held at the Commission's office at the Governor Office Building, Room 310, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

4. This order shall become effective immediately upon issuance.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. C. Reed', written over a horizontal line.

Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
Gunn, and Kenney, CC., concur.

Woodruff, Chief Regulatory Law Judge