GR-2008-0364
Atmos Energy Corporation

2007 – 2008 Actual Cost Adjustment (ACA)

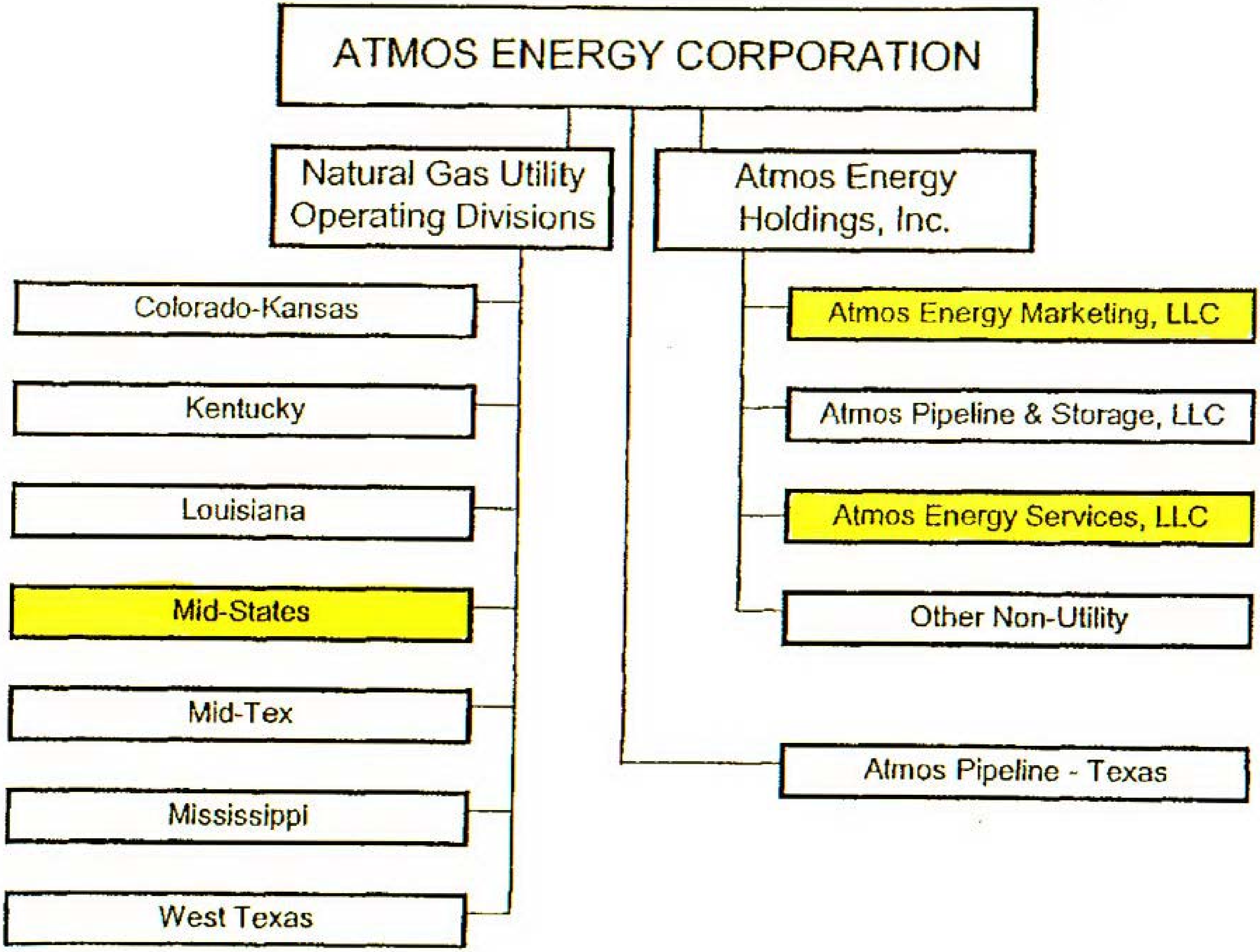
Hannibal / Canton / Palmyra/ Bowling Green

Staff Exhibit 3[illegible] / GR-2008-0364
3/24/11

ACA Period September 2007- August 2008 ACA

- Staff's review examined:
  - Gas purchasing practices & decisions for prudence
  - Reasonableness of Hedging Plans
  - Reliability analysis of estimated peak day requirements & capacity levels

Staff Recommendation filed Dec. 28, 2009


ATMOS ENERGY CORPORATION
Natural Gas Utility Operating Divisions
Atmos Energy Holdings, Inc.
Colorado-Kansas
Kentucky
Louisiana
Mid-States
Mid-Tex
Mississippi
West Texas
Atmos Energy Marketing, LLC
Atmos Pipeline & Storage, LLC
Atmos Energy Services, LLC
Other Non-Utility
Atmos Pipeline - Texas

Panhandle Eastern Pipe Line

Delivery Points

Panhandle	February 2007
Panhandle Eastern Pipe Line Company	
Gas Storage Facilities	
Bi-directional Points	
Haven begins Market Area	

<u>Section 393.130.1 RSMo</u>

“All charges for gas service must be just and reasonable”

"Prudence Standard" defined:

"A utility's costs are presume to be prudently incurred.... However the presumption does not survive a showing of inefficiency or improvidence"

"Where some other participant in the proceeding creates a serious doubt as to the prudence of an expenditure, then the applicant has the burden of dispelling these doubts and proving the questioned expenditure to have been prudent.

The test of prudence should not be based upon hindsight, but upon a reasonableness standard: The company's conduct should be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight. In effect, our responsibility is to determine how reasonable people would have performed the task that confronted the company."

ASSOCIATED NATURAL GAS COMPANY V. PUBLIC SERVICE COMMISSION OF MISSOURI, Western District Court of Appeals, 1997 (cite **954 SW2d 520**)

Affiliate Transaction Rule
4CSR 240-40.015 and 40.016

- Requires extensive, contemporaneous records
- Does not modify existing legal standards
- Upheld by MO Supreme Court in 2003

  State ex rel Atmos Energy Corporation v. Public Service Commission, 103 S.W.3d 753

- Procurement Analysis Department charged with scrutinizing gas supply transactions
  - *No advantage / preference to affiliate*

U.S. Supreme Court

In gas rate proceeding, distributing company had burden of proving that price at which it obtained gas from affiliated seller was no higher than would be payable in regulated business by buyer unrelated to seller and dealing at arm's length

Dayton Power & Light Co. v. Public Utilities Commission of Ohio
1934 (cite 292 U.S. 290, 54 S.Ct. 647)

Affiliate Transactions

"Throughout the United States it is recognized that a public utility's dealings with affiliates require thorough investigation and close scrutiny by a public utility commission."

Turpen v. Oklahoma Corp. Comm., 769 P.2d 1309, 1320 (OK. Sup.Ct. 1988) citing *United States v. Western Elec. Co., Inc.* 392 F.Supp.836,853 [D.D.C. 1984].

"It is generally held that …the utility bears the burden of proving that expenses incurred in transactions with affiliates are reasonable."

Boise Water Corp. v. Idaho Public Util. Commission [Boise Water I and Boise Water II]

Explanation of Basic Terms

- Supply-only agreement
- **N**orth **A**merican **E**nergy **S**tandards **B**oard (NAESB)
- Firm Service vs. Interruptible Service

  5.4 Reliability (DR 78 Request for Proposal)

  All gas supply is to be **firm and warranted** assuring that natural gas supply services will meet all contractual obligations without fail
- Baseload gas *example*

  30,000MCF/month=1000MCF/day
- Daily gas / Swing gas / Spot gas

Explanation *(continued)*

- Nomination
- First of Month or FOM
- Field Zone (production area)
- Market Zone (market/customer area)
- Index Pricing (*is published*)
  - FOM
  - Gas Daily Average

Atmos Gas Supply Plan

(DR 8 and Buchanan Direct Sched. 1)

- Typically, first-of-month nominations are made to cover the daily average of the percent warmer purchase requirements....

- ...the plan should also reflect requirements based on normal, a percent warmer and a percent colder than normal degree days.

- This percent ...is 20% in Missouri...

- ...the plan should only be adjusted prospectively to adjust for planned storage level differences experienced in previous months.

Atmos PEPL
(Hannibal/Canton and Bowling Green) Gas Supply Plan for Missouri

(DR79)

December 2007	Average Daily Requirement	
	Normal Weather	**20% Warmer**
Hannibal/ Canton	3,900	3,100
Bowling Green	780	630
Total	4,680	3,730
Monthly Total	145,080	**115,630**

December 2007 Nomination

Total Planned Warmest FOM Nomination (DR 79)	**115,630**	end of NOV storage is 32,844 below plan (DR13)
Actual FOM Nomination (DR33)	**86,800**	
difference	**28,830**	
% Below Warmest Dec.	**24.9%**	

Dec FOM NOM: **Nov. 20**

PEPL trouble: **Nov. 21**

PEPL Force Majeure: **Nov 27**

Last Day for Dec FOM NOM is
Nov. 26 - Monday

December 2007

- Dec. 7 - Atmos Orders Swing Gas

  AEM did <u>not</u> declare Force Majeure as required under NAESB contract with Atmos

- Dec. 10 - AEM tells Atmos "this weekend I should be able to free some up"
- AEM has more than enough FOM gas to meet Atmos needs
- As of Dec. 25, AEM has **<u>no</u>** gas under contract for Jan., Feb., and March 2008 (PEPL)

Relief Sought

- *Scenario 1*: **$52,572** harm to customers
  - Is impact of:
    - Not nominating reasonable Dec. 07 baseload supplies
    - Had to order more costly baseload and swing gas in Jan., Feb., and March 08
    - Calculation of damages uses Average Price paid for more costly supplies
    - Scenario increases Dec. baseload by 58,900 MCF or 1,900 MCF/day

Relief *(continued)*

- *Scenario 2*: $85,775 harm to customers
  - Like *Scenario 1*, is impact of:
    - Not nominating reasonable Dec. 07 baseload
    - Having to order more costly baseload & swing gas in Jan., Feb., & March 08 and uses Average Price paid for those supplies in calculation
    - *Scenario 2* increases Dec. baseload by 96,100 MCF or 3,100 MCF/day *to assure sufficient winter supplies*
    - To be 5% above storage plan by end of Dec.

Relief (continued)

- $308,000 Proposed Disallowance
  - Based on AEM's Fair Market Value (Price) of its gas supplies
  - Readjusts AEM's "cost of supply" by pricing baseload supply at FOM pricing
  - AEM had more than sufficient baseload to meet its "FIRM" obligation to Atmos