

**BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI**

In the Matter of 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 in the Northeastern Area. )

**Case No. GR-2008-0364**

**PUBLIC COUNSEL'S RESPONSE IN  
SUPPORT OF STAFF'S MOTION TO COMPEL**

**COMES NOW** the Office of the Public Counsel and for its response in support of the Staff's Motion to Compel states as follows:

1. On September 14, 2010, the Commission's Staff filed a motion asking the Commission to compel Atmos Energy Corporation to provide the data requested by the Staff's Data Request Nos. 117.1 and 131.1. These data requests were the subject of a discovery conference held on September 13, 2010 between the regulatory law judge and counsel for Staff, Atmos, and Public Counsel.

2. As the Staff explained in its Motion to Compel, the Staff's data requests seek information that the Staff needs to continue with its investigation into the prudence of gas costs charged to ratepayers through the Purchased Gas Adjustment (PGA). Additional support for the Staff's need for the requested data can be found in the prefiled Highly Confidential testimony of Staff witness Mr. David Sommerer, wherein Mr. Sommerer explains the reasons for the data sought by Staff.

3. During the discovery conference, counsel for Atmos urged the Commission to move forward with the case procedurally, before the discovery dispute is

resolved. Atmos is attempting to force the Staff into the hearing room without the data that Staff needs to complete its investigation. Public Counsel urges the Commission not to force its Staff into being unnecessarily rushed. The Staff is already at a disadvantage in that only Atmos possesses the data regarding its gas purchases. The Staff is at the mercy of Atmos's willingness to provide the requested data, or the Commission's willingness to compel Atmos to provide the requested data. Unlike a general rate case where the parties and the Commission operate under a statutorily established timeline, there is no need to proceed expeditiously in a gas prudence review. There is no operation of law date that places limitations on the amount of time the Commission has to resolve this case. Public Counsel asks that the Commission provide its Staff with the additional time the Staff needs to complete its discovery and ultimately its prudence investigation.

4. This case raises novel and unresolved issues involving the prudence of gas purchases between a local distribution company and a non-regulated marketing affiliate, and how the fair market value of gas is to be determined in such cases. Investigating novel issues is likely to require more time what is needed to investigate typical issues.

5. Ratepayers deserve a complete and careful investigation into the prudence of the gas purchases and corresponding rates that were already paid by ratepayers without Commission review. All rates paid by ratepayers, including PGA rates, must be just and reasonable under Section 393.130 RSMo. For these reasons, Public Counsel supports the Staff's request that the Commission compel Atmos to answer the Staff's Data Requests Nos. 117.1 and 131.1.

WHEREFORE, on behalf of the rate paying customers of Atmos Energy Corporation, the Office of the Public Counsel respectfully offers this response in support of the Staff's Motion to Compel.

Respectfully submitted,

**/s/Marc D. Poston**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record this 22<sup>nd</sup> day of September 2010.

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**/s/Marc D. Poston**

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