

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

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| In the matter of PGA / ACA filing of Atmos |) | |
| Energy Corporation for the West Area (Old |) | |
| Butler), West Area (Old Greeley), |) | Case No. GR-2008-0364 |
| Southeastern Area (Old SEMO), Southeastern |) | |
| Area (Old Neelyville), Kirksville Area, and in |) | |
| the Northeastern Area |) | |

**STAFF'S MOTION TO SUSPEND PROPOSED PROCEDURAL
SCHEDULE**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and respectfully requests the Commission suspend the procedural schedule adopted in this case on February 24, 2010, due to the failure of Atmos to produce documents requested in a Staff Data Request.

Staff rebuttal testimony in this case is due to be filed on Monday, June 14, 2010. Staff is unable to comply with the established deadline due to the failure and refusal of Atmos to provide requested documents in response to Staff Data Request No. 117. As a result of Atmos' non-responsive reply, the Staff is unable to proceed with the preparation of testimony in this case, all as is more fully set out below:

1. On May 3, 2010, the Staff issued DR 117, (marked HC) attached hereto and incorporated by reference.
2. Atmos did not object to DR No. 117.
3. Under Commission rule 4 CSR 240-2.090(2), Atmos had twenty days until May 23, 2010, to answer Staff. Atmos did not comply.

4. On June 3, 2010, Staff counsel had a discovery conference with counsel for Atmos who advised Staff that a response to DR 117 was forthcoming. That same day the Company sent an email to Staff informing it that two DRs, 117 and 131¹ were still outstanding and that the Company was still working on its responses. The Company gave a partial answer to DR 117 on May 24, 2010, and another additional partial response on June 3, 2010.

5. On June 9, 2010, the Company submitted its final reply to DR 117. This came to the attention of Staff on June 10, 2010.

6. In DR 117, Staff specifically requested the following documents critical to its investigation of Atmos' affiliate transactions:

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7. Atmos' reply that it does not have possession of the requested documents denies the Staff discovery of information the Staff needs to proceed with its case in chief. Atmos did not object to DR 117. Atmos' actions show that it waited to file its response out of time and at the 11th hour before testimony is to be filed. Atmos' violation of the Commission's discovery

¹ Staff DR 131 was submitted by Staff on May 13, 2010 and due to Staff on June 2, 1010. Atmos responded to it on

rules cannot be permitted to hinder the Staff's preparation of its testimony to the benefit of the rule breaker, Atmos.

8. Commission rule 4 CSR 240-2.09 (1) permits sanctions for the abuse of the discovery process as are provided for in the rules of civil procedure. Missouri Court Rule 61.01 permits sanctions against the disobedient party, Atmos. Accordingly, the Commission may, among other more severe sanctions, stay this proceeding. At a minimum, the Staff seeks to suspend the procedural schedule and may seek other sanctions as may be required.

9. The public interest requires that Staff be permitted ample time for discovery and that the Commission's discovery rules be enforced. Staff is engaged in determining whether the fair market value of the gas supply transactions of Atmos' unregulated affiliate, Atmos Energy Marketing (AEM), is the fair market value to Atmos. The profits that were made by AEM in its sales to Atmos the LDC were ultimately paid by Missouri ratepayers. Atmos has ultimate control over all documents. Until Staff receives the documents that it has requested, the Staff cannot proceed under the procedural schedule set in this case.

9. Therefore, until this discovery dispute is resolved either by the parties or by the Commission, the Staff prays the Commission issue an order suspending the procedural schedule indefinitely and ordering the Staff to provide status reports to the Commission every 60 days.

10. Staff notes for the Commission that there is no operation of law date in this ACA case. At dispute is a proposed affiliate transaction disallowance, therefore there is not harm to Atmos by suspending this procedural schedule until the Staff has received the documents it has requested from Atmos in DR 117, paragraphs J and K.

June 9, 2010 that "...There are no documents responsive to this request."

WHEREFORE, for the above stated reasons, the Staff respectfully requests the Commission suspend indefinitely the procedural schedule in this case.

Respectfully submitted,

/s/ Robert S. Berlin

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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 11th day of June 2010.

/s/ Robert S. Berlin