

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

In the Matter of the Application of Atmos)	
Energy Corporation for a Variance and)	Case No. GE-2009-0443
Waiver from the Provisions of)	
4 CSR 240-3.235.)	

**STAFF REPLY TO PUBLIC COUNSEL’S RESPONSE TO
APPLICATION**

COMES NOW the Staff of the Commission and for its Reply to Public Counsel’s Response to Atmos’ Application for waiver of 4 CSR 240-3.25 states:

1. On June 19, 2009, Atmos filed its Application for a Variance and Waiver (Application) from the provisions of Commission Rule 4 CSR 240-3.25 to allow the Company to file its next rate case without the inclusion of a new depreciation study.
2. On July 8, 2009, the Staff filed its Recommendation verified by Staff Utility Regulatory Engineer II Guy Gilbert supporting the waiver subject to two conditions. Atmos agreed to both conditions in its July 13th response to Staff’s recommendation.
3. Condition (1) limits the waiver to a rate case filed in calendar year 2009. Staff points out the granting of such a waiver extends the amount of time Atmos has to file its 2009 rate case with no depreciation study by a mere 8 months and 3 weeks, from April 7, 2009 through December 2009. Commission rule 4 CSR 240-3.25 allows Atmos to have filed its rate case by April 7th without a depreciation study.
4. Condition (2) prohibits Atmos from proposing changes to its depreciation rates as a part of its 2009 rate case and requires Atmos to continue using the Commission ordered current depreciation rates for its plant serving Missouri operations. This condition

was agreed to by the parties, including Public Counsel, in the Stipulation and Agreement approved by the Commission in Atmos' last rate case, GR-2006-0387. (The Company filed that rate case on April 7, 2006).

5. Public Counsel's statement that "...Atmos chose not to begin the process of vintaging the asset retirements until recently" (OPC Response para. 3) is not accurate. Mr. Guy Gilbert and other Staff members have been working with Atmos to address problems in reconstructing vintage data records since the Company's last rate case.

6. These problems are not new. As explained in Staff's Recommendation, the Commission granted Atmos a waiver from 4 CSR-240-40.040(3) requiring vintage data because Atmos was unable to obtain or reconstruct the vintage data. (Case No. GE-2008-0342). Just as toothpaste cannot be put back in the tube, the only reasonable alternative is to go forward and manage what is known. That said, the granting of this waiver does no harm to the ratepayer or to the Company.

WHEREFORE, the Staff renews its recommendation that the Commission approve Atmos' Application for waiver from 4 CSR 240-3.235 subject to the following conditions:

- (1) this waiver will apply only to a rate case filed in calendar year 2009; and,
- (2) Atmos will not propose changes to its depreciation rates as a part of its 2009 rate case.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 15th day of July 2009.

/s/ Robert S. Berlin