

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

In the Matter of Atmos Energy Corporation’s Tariff)
Revision Designed to Consolidate Rates and) Case No. GR-2006-0387
Implement a General Rate Increase for Natural Gas)
Service in the Missouri Service Area of the Company.)

**JOINT RESPONSE OF THE STAFF
OF THE MISSOURI PUBLIC SERVICE COMMISSION
AND ATMOS ENERGY CORPORATION**

COME NOW the Staff of the Missouri Public Service Commission (“Staff”) and Atmos Energy Corporation (“Atmos”), pursuant to the Commission’s Order Establishing Deadline for Responses (“Order”) entered in this matter on October 7, 2009, and for their Joint Response respectfully state as follows:

1. In its Order, the Commission notes that “[t]his case has been remanded to the Commission following a writ of review and decision by the court of appeals. The Commission shall now establish a deadline for suggestions from the parties regarding the procedure to follow upon remand.” The Order then provides that any party wishing to file such a pleading shall do so no later than October 30, 2009. (Order, page 1).

2. In *State ex rel. OPC v. P.S.C.*, 2009 WL 1748704 (Mo. App. W.D. June 23, 2009), the Commission’s February 22, 2007 Report and Order issued in this matter was affirmed in part and reversed and remanded in part. As set forth in the Conclusion of the Court of Appeals’ Opinion at page 24: “Due to the absence of competent and substantial evidence to support the Commission’s findings regarding subsidization and Atmos’s cost of service, we reverse the Commission’s decisions adopting the SFV rate design and approving consolidation of Atmos’s districts and remand those matters to the Commission for further proceedings.”

3. Footnote 5 at Page 15 of the Court of Appeals' Opinion provides: "Our holding should not be interpreted to discourage the Commission's adoption of alternative rate designs, including an SFV rate design, when supported by competent and substantial evidence."

4. The Court's Opinion clearly contemplates that the Commission will re-examine these issues. In discussing the Seasonal Reconnection Charges at pages 22-23 of the Opinion, the Court notes:

However, because we have reversed and remanded the Commission's adoption of the SFV rate design, we remand this issue back to the Commission to allow it the flexibility of revising its findings and conclusions **depending on the rate structure ultimately adopted**. . . . However, it remains to be determined how much the reconnection charge will be, and how it will be structured, **depending on the rate design that ultimately prevails**. (Emphasis added).

5. As fully discussed in Commission Case No. GE-2009-0443 and as reflected in the Commission's Order¹ issued therein, Atmos plans on filing its next rate case prior to the end of calendar year 2009. Rather than re-opening the record in the above-captioned case for further proceedings, Staff and Atmos respectfully suggest that the issues remanded by the Court of Appeals and the Circuit Court of Cole County should be addressed in Atmos's next rate case. Such action would be lawful, prudent and reasonable, and would further the interests of judicial efficiency.

¹ *In the Matter of the Application of Atmos Energy Corporation for a Variance and Waiver from the Provisions of 4 CSR 240-3.235*, Order Approving Unanimous Stipulation and Granting Waiver, September 16, 2009.

WHEREFORE, Staff and Atmos respectfully submit their Joint Response and request that the Commission follow the above-described procedure upon remand.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, First Class mail, postage prepaid, this 30th day of October, 2009, to all counsel of record in this matter.

/s/ Larry W. Dority
Larry W. Dority