

**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.)	

STIPULATION AND AGREEMENT

COME NOW the Missouri Office of the Public Counsel ("Public Counsel") and Atmos Energy Corporation ("Atmos" or "Company") (collectively referred to as "Signatory Parties"), by and through their respective counsel and, pursuant to Missouri Public Service Commission ("Commission") Rule 4 CSR 240-2.115(2), submit the following Nonunanimous Stipulation And Agreement which, if approved by the Commission, should dispose of all issues in this proceeding:

Procedural History

1. On June 19, 2009, Atmos filed its Application for Variance and Waiver ("Application") from the provisions of 4 CSR 240-3.235 requiring Atmos to file a new depreciation study in its next general rate case. Atmos requested expedited treatment regarding the waiver and specifically requested a decision by July 31, 2009.
2. On June 30, 2009, Noranda Aluminum, Inc. filed its Application to Intervene in this matter, which was granted by Commission order dated July 9, 2009.

3. On July 8, 2009, the Commission Staff filed its Staff Recommendation In Support Of Waiver which expressed Staff's support for the grant of the waiver, as requested by the Company, with conditions¹.

4. On July 13, 2009, Atmos filed its Response to the Staff Recommendation In Support Of Waiver, in which Atmos accepted the proposed conditions of Staff.

5. Also on July 13, 2009, Public Counsel filed its Response To Application which opposed the grant of the Company's Application.

6. On July 23, 2009, Atmos filed its Reply to Public Counsel's Response to Application.

7. On July 24, 2009, the Commission issued its *Order Setting Hearing*, wherein the Commission stated that it was unable to grant the motion for expedited treatment for the particular time frame requested, but that it would expedite a hearing on this matter. The Commission's Order scheduled a hearing on August 4-5, 2009, utilizing live testimony in lieu of prefiled testimony.

8. On July 29, 2009, Public Counsel moved that the hearing be rescheduled to allow time for additional discovery and further settlement discussions between the parties. As noted in the Commission's July 30th *Order Resetting Hearing*,

Atmos filed a response indicating its willingness to reschedule the hearing if it would not 'unduly delay' a decision. Atmos suggested the week of August 24th for the hearing. Staff of the Commission filed its response stating that it also believes a delay in the proceedings could help facilitate settlement of the issues. Staff also stated that the week of August 24th is a reasonable time for the hearing to be convened. (Order, page 1).

¹ Staff suggested in its Memorandum that the Commission grant the waiver subject to the following conditions: (1) the 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.

Having reviewed the motion and responses, the Commission rescheduled the hearing and other procedural guidelines, setting the hearing for August 25-26, 2009.

Agreed Upon Terms and Conditions

9. As a result of settlement negotiations, Public Counsel and Atmos hereby offer the following stipulations and agreements to resolve any outstanding issues in this matter:

a. Atmos agrees to remove the negative amortization of the depreciation reserve from the cost of service in its next rate case filed in 2009.

b. Atmos will not offer testimony in said rate case supporting a negative amortization of the depreciation reserve.

c. Public Counsel hereby withdraws its opposition to the granting of the subject waiver in this proceeding.

d. Atmos and Public Counsel agree that the Commission's approval of the requested waiver is subject to the following conditions recommended by the Staff: (1) the 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.

10. It is the understanding of the Signatory Parties that neither the Staff of the Commission nor Noranda Aluminum, Inc. oppose this Nonunanimous Stipulation and Agreement.

General Provisions

11. This Stipulation and Agreement shall become effective upon Commission approval without modification by final Commission order approving the stipulation and agreement and granting the waiver requested in this proceeding, subject to the Staff's

conditions referenced herein. Such order becomes “final” either by issuance of a Commission order on rehearing or, if no rehearing is filed, upon the effective date of the above-described Commission’s order.

12. This Stipulation and Agreement has resulted from extensive negotiations among the Signatory Parties and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation and Agreement in total, then this Stipulation and Agreement shall be void and no Party shall be bound by any of the agreements or provisions hereof. The stipulations herein are specific to the resolution of this proceeding, and all stipulations are made without prejudice to the rights of the Signatory Parties to take other positions in other proceedings, except as specifically stated herein.

13. This Stipulation and Agreement is being entered into for the purpose of disposing of all issues in this case. Neither of the Signatory Parties to this Stipulation and Agreement shall have been deemed to have approved, agreed, consented or acquiesced to any accounting principle, ratemaking principle or cost of service determination underlying, or supposed to underlie any of the issues provided for herein.

14. The Signatory Parties further understand and agree that the provisions of this Stipulation and Agreement relate only to the specific matters referred to in the Stipulation and Agreement and no Party waives any claim or right which it otherwise may have with respect to any matters not expressly provided for in this Stipulation. The Signatory Parties further reserve the right to withdraw their support for the settlement in the event that the Commission modifies the Stipulation and Agreement in a manner which is adverse to the party withdrawing its support and further, both parties reserve the right to contest any such Commission order modifying the settlement in a manner which

is adverse to the party contesting such Commission order. Additionally the Signatory Parties agree that the stipulations and agreements reached in this case have no precedential effect in any future case filed or other case pending in front of this Commission except as specifically stated herein.

15. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the Signatory Parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.070(2), RSMo 2000 to call, examine and cross-examine witnesses; their respective rights to present oral argument or written briefs pursuant to Section 536.080.1, RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2, RSMo 2000; their respective rights to seek rehearing pursuant to Section 386.500, RSMo 2000; and their respective rights to judicial review pursuant to Section 386.510, RSMo 2000. If this Stipulation and Agreement is not approved by the Commission, the Signatory Parties request that a procedural schedule be established which provides for a hearing, to include the opportunity for cross-examination.

WHEREFORE, the undersigned parties respectfully request that the Commission issue its Order approving all of the terms and conditions of this Stipulation and Agreement and grant the subject waiver requested in this proceeding, subject to the Staff's conditions referenced herein.

Respectfully submitted,

/s/ Marc D. Poston (LWD)

Marc D. Poston MBN 45722
Senior Public Counsel
P.O. Box 2230
Jefferson City, Missouri 65102
Telephone: (573) 751-5558
Facsimile: (573) 751-5562
E-mail: marc.poston@ded.mo.gov

Attorney for the Missouri Office of the
Public Counsel

/s/ Larry W. Dority

James M. Fischer, MBN 27543
E-mail: jfischerpc@aol.com
Larry W. Dority, MBN 25617
E-mail: lawdority@sprintmail.com
Fischer & Dority, P.C.
101 Madison Street, Suite 400
Jefferson City, MO 65101
Telephone: (573) 636-6758

Douglas C. Walther, MBN 32266
Associate General Counsel
Atmos Energy Corporation
P.O. Box 650205
Dallas, Texas 75265-0205
Email: douglas.walther@atmosenergy.com
Telephone: (972) 855-3102

Attorneys for Atmos Energy Corporation

Certificate of Service

I hereby certify that a copy of the above and foregoing document was sent by electronic mail, or hand delivered, on this 26th day of August, 2009 to counsel of record.

/s/ Larry W. Dority

Larry W. Dority