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Issue: Purchasing Practices and
Other ACA Issues
Witness: John Hack
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Sponsoring Party: Atmos Energy Corporation
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REBUTTAL TESTIMONY

OF

JOHN HACK

ON BEHALF OF

ATMOS ENERGY CORPORATION

FEBRURARY 28, 2003

My Commission expires 01-14-06

1 **REBUTTAL TESTIMONY OF JOHN HACK**

2

3 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

4 **A.** My name is John Hack, and my business address is Atmos Energy Corporation,
5 Suite 160, Three Lincoln Center, 5430 LBJ Freeway, Dallas, Texas 75240.

6

7 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

8 **A.** I am employed by Atmos Energy Corporation as Director, Gas Supply Planning.
9 In this proceeding, I am testifying on behalf of Atmos Energy Corporation
10 (“Atmos” or “Company”) Mid States division (formerly known as United Cities
11 Gas Company), a division of Atmos Energy Corporation.

12

13 **Q. ARE YOU THE SAME JOHN HACK WHO FILED DIRECT TESTIMONY**
14 **IN THIS CASE?**

15 **A.** Yes.

16

17 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

18 **A.** The purpose of my rebuttal testimony is to respond to the direct testimony of
19 Missouri Public Service Commission Staff’s witnesses Lesa Jenkins and Phil
20 Lock in this case.

1 **Q. DO YOU AGREE WITH MS. JENKINS' STATEMENT IN HER REVISED**
2 **DIRECT TESTIMONY PAGE 45 LINES 10-11 THAT STAFF'S**
3 **ANALYSIS OF COMPANY'S DECISIONS REGARDING UTILIZATION**
4 **OF STORAGE WAS BASED ON INFORMATION THAT WAS KNOWN**
5 **OR SHOULD HAVE BEEN KNOWN AT THE TIME THE COMPANY**
6 **MADE THE DECISIONS?**

7 **A.** No. Staff's opinion is based on an analytical evaluation of historical information,
8 not information that was available to the Company at the time the decision had to
9 be made. For example, part of Staff's recommendation is based on the fact that
10 the weather for January, 2001 was near normal. The Company made the decision
11 to put on flowing supplies for January, 2001 in late December. At that time, most
12 forecasts called for severe cold weather to continue and for natural gas
13 commodity prices to continue to rise. In the event the Company had not made the
14 decision to increase flowing supplies and those weather forecasts had proved
15 accurate, the Company's ability to meet a late winter peak could have been
16 compromised which could have resulted in the possibility of incurring even more
17 cost associated with increasing commodity prices. At the time the decisions were
18 made, the Company did not know and could not have known that January weather
19 was going to moderate and be close to normal.

20
21
22

1 **Q. DO YOU HAVE INFORMATION FROM THE COMMISSION'S NATURAL**
2 **GAS COMMODITY PRICE TASK FORCE THAT CONFIRMS THAT**
3 **THE WEATHER IN NOVEMBER AND DECEMBER OF 2000 WAS**
4 **UNUSUALLY COLD AND RESULTED IN UNEXPECTED IMPACTS**
5 **UPON THE PRICE OF NATURAL GAS IN THE WINTER?**

6 **A.** Yes. The final Report of the Missouri Public Service Commission's Natural Gas
7 Commodity Price Task Force issued August 29, 2001 states: "Missouri was
8 typical of most states in the U.S. during this heating season. Prior to the 2000-01
9 heating season, Missouri experienced the three consecutive heating seasons 1997-
10 2000 with the fewest total HDDs in the last forty-one years (1960-2001), i.e.
11 1997-98, 34th; 1998-99, 40th; and 1999-00, 41st; The most recent Missouri heating
12 season with a weighted HDD total as high as 2000-01 was 1995-96. Each of the
13 four heating seasons after 1995-96 was successively warmer than the previous."
14 The report goes on to state: "During the summer of 2000 the cost of natural gas
15 was high and many market participants held off making significant injections
16 anticipating a drop in natural gas prices. This anticipated drop in prices did not
17 materialize. . . For most of the US, including Missouri, the winter of 2000-01
18 contained the coldest combined November and December on record. This early
19 record cold placed an unexpected strain on gas supplies and the wholesale market
20 responded. The remainder of the heating season was not so severe, but the HDD
21 total for the heating season was the ninth highest in forty-one years. The increase
22 in HDD from 1999-00 (3,443 HDD) to 2000-01 (4,608 HDD) was the largest
23 consecutive season-to-season difference in HDD in the last forty-one years.

1 Statistically speaking, the return interval for a difference of this magnitude (1,165
2 HDD) is over 140 years. Once again, the pattern of HDD for November and
3 December, and the total heating season in Missouri, was similar to the national
4 pattern. . . At the end of 2000, after two months of extraordinarily cold weather
5 and continued reports of extreme storage withdrawals, the commodity price of
6 natural gas spiked to nearly \$10/Mcf in late December....An unusual
7 phenomenon occurred in December 2000 when the commodity price of natural
8 gas was higher than the retail price of natural gas.”
9

10 **Q. ON PAGE 10 OF MR. LOCK'S DIRECT TESTIMONY, HE STATES**
11 **THAT MOST REGULATORY REVIEWS ARE BY NECESSITY AFTER-**
12 **THE-FACT REVIEWS OF THE COMPANY'S PURCHASING**
13 **PRACTICES. DO YOU AGREE?**

14 **A.** Mr. Lock's statement in his direct testimony that most regulatory reviews are, by
15 necessity, after-the-fact reviews of the Company's purchasing practices may
16 indeed be a factual statement. However, if Staff's analysis was based only on
17 information known to the Company at the time decisions had to be made,
18 Company does not believe Staff would not have made statements regarding the
19 fact that January, 2001 was near normal. The Company certainly did not have
20 that information at the time decisions were made. The Company believes there is
21 a difference between an after-the-fact review and hindsight review and, in this
22 case, the Company believes Staff has clearly demonstrated that they have
23 conducted a hindsight review.

1 **Q. DO YOU BELIEVE THAT STAFF WOULD HAVE THE SAME**
2 **RECOMMENDATION IF THE COMPANY HAD NOT INCREASED**
3 **FLOWING GAS IN JANUARY 2001 AND THE WEATHER RESULTED**
4 **IN A MUCH COLDER THAN NORMAL JANUARY AND PRICES HAD**
5 **CONTINUED TO ESCALATE?**

6 **A.** No. I do not believe that Staff would find the Company imprudent for its decision
7 to increase flowing gas for January in that situation, thereby protecting storage
8 deliverability and ensuring supply reliability for a late winter peak if the weather
9 had continued in its severity and prices had continued to escalate as predicted. In
10 fact, the Company strongly believes that the decisions it made at the time were
11 precisely the prudent thing to do and takes that responsibility very seriously. It
12 appears to the Company that Staff's recommendation is driven more by the
13 calculated revenue impact than a review of the Company's reasonable business
14 actions. Under this scenario, the Company will always be at financial risk based
15 solely on an after-the-fact numbers review.

16

17 **Q. NOW THAT ALL FACTS ARE KNOWN FOR THE WINTER 2000-2001,**
18 **COULD THE COMPANY HAVE OPERATED DIFFERENTLY DURING**
19 **THAT PERIOD?**

20 **A.** Absolutely. Storage and flowing gas could have been utilized differently with all
21 facts that are known today. The Company could now conduct its own hindsight
22 review and determine that it could have utilized storage and flowing gas in a

1 different manner. However, the fact remains that the Company did not have these
2 facts available at the time it had to make its decisions.

3
4 **Q. DO YOU AGREE WITH MS. JENKINS' STATEMENT IN HER REVISED**
5 **DIRECT TESTIMONY PAGE 9, LINE 9 THAT STAFF USES A**
6 **"REASONABLE SCHEDULE" TO COMPUTE THE PROPOSED**
7 **DISALLOWANCE?**

8 **A.** No. The Company believes one key test of reasonableness would be the answer
9 to the question, "What would other experienced gas procurement departments do
10 in a similar situation"? Other LDC's in the state of Missouri as well as across the
11 country made exactly the same decision to increase flowing gas in January as a
12 result of the weather and price forecasts available during December, 2000. The
13 Company does not believe that it, along with many other LDC's across the
14 country, exhibited unreasonable actions during a period of unprecedented cold
15 weather and high commodity prices.

16
17 **Q. DO YOU BELIEVE THAT STAFF HAS MADE AN OBJECTIVE**
18 **EVALUATION OF THE COMPANY'S DECISIONS AND HAS MADE AN**
19 **OBJECTIVE AND REASONABLE RECOMMENDATION?**

20 **A.** No. The Company has an obligation to ensure a reliable source of supply to meet
21 the firm requirements of its customers. Staff's analysis and recommendation
22 ignores this. Had the predominant forecasts of weather and commodity prices
23 been accurate, and had the Company not increased flowing supplies for January,

1 2001, storage levels could have reached critically low levels and prices could
2 have continued to escalate and natural gas supplies could have been extremely
3 difficult or even impossible to obtain. As I stated earlier, Staff's evaluation of the
4 Company's decisions and resulting recommendation fails to take those factors
5 into account. It is based solely on an after the fact analytical review.

6
7 **Q. DO YOU AGREE WITH MS. JENKINS' DETAILED ANALYSIS OF THE**
8 **WINTER 2000-2001 INCLUDING ALL THE CHARTS, GRAPHS AND**
9 **SCHEDULES SHE PREPARED.**

10 **A.** I do not disagree with Ms. Jenkins mathematical or technical approach. Ms.
11 Jenkins has performed a sound after the fact technical analysis. Furthermore, I
12 am not going to dispute specific numbers. However, it appears to me that Ms.
13 Jenkins has only considered these methodologies and the analytical results and
14 has failed to consider any existing conditions or information at the time other
15 factors that could justify deviation from her derived calculations. Given the
16 information now known two years after the fact, the Company could calculate the
17 same results. Staff's mathematical approach is only available to someone with
18 the luxury of 20/20 hindsight.

19
20 **Q. WHAT DO YOU MEAN BY THE REFERENCE TO OTHER FACTORS**
21 **THAT COULD JUSTIFY DEVIATION FROM HER DERIVED**
22 **CALCULATIONS IN YOUR PREVIOUS RESPONSE?**

1 **A.** The Company did withdraw storage above planned level during November but
2 not significantly. December was much colder than normal and the Company
3 withdrew from storage above the planned level during December to a greater
4 extent. Typically, the December storage withdrawal would have been reduced
5 through increasing flowing supplies on an incremental basis. This was not done
6 because the gas daily commodity pricing was increasing steadily to near record
7 levels during mid to late December. During this timeframe, the Company
8 evaluated the storage level, the possibility of the continuation of colder than
9 normal weather, the potential for continuation of escalating prices, as well as the
10 reliability of supply for our customers. Based on that evaluation, and the facts
11 known at that time, the Company made an operational decision, to increase
12 flowing gas during January to reduce the level of storage utilization. This
13 operational decision was of such importance to the Company that the senior
14 management of the Company was consulted prior to the final decision being made
15 to increase flowing gas in January, 2001. Therefore, I do not question Ms.
16 Jenkins mathematical calculations or Staff's ability to compile very detailed and
17 voluminous data. However, I do not believe Ms. Jenkins would have been
18 surprised by Utilities increasing flowing gas during January, 2001, nor do I
19 believe that she would be alleging imprudence or unreasonableness, had she been
20 charged with making the same decisions at the time they had to be made.

21
22 **Q. CAN YOU CITE AN EXAMPLE OF WHAT CAN HAPPEN IF STORAGE**
23 **LEVELS ARE TOO LOW LATE IN A HEATING SEASON?**

1 A. Yes, the events of this week in the gas market provide a perfect example. This
2 Monday, February 24, natural gas prices spiked by 38% as colder than forecast
3 weather increased concerns in the market about supply shortages by the end of the
4 winter. According to the February 25, 2003 edition of The Dallas Morning News,
5 that was the largest single day increase in natural gas prices in 13 years. Paul
6 Flynn, an analyst at Alaron Trading Corporation in Chicago was quoted in The
7 Dallas Morning News on February 25 describing the price spike. He said “it was
8 just a very explosive day. There’s a little bit of panic that if we continue along
9 this path, come the end of the season, we’re going to be down to almost nothing in
10 storage.” (emphasis added). Company’s decision to increase flowing and gas
11 and reduce the level of storage utilization in January 2001 was made to avoid
12 exactly the type of situation that resulted in the natural gas market this week.
13 These events serve as a stark reminder that if storage is unavailable to meet a peak
14 late in the heating season, customers may be subject to supply concerns and
15 higher prices.

16
17 **Q. STAFF MAKES REFERENCE TO INCONSISTENCIES IN DATA**
18 **SUPPLIED DURING THE ACA PERIOD AUDIT, DO YOU AGREE?**

19 A. No. The Company responded to approximately 460 data requests with
20 approximately 1,000 subparts. Many of these subparts requested extensive data
21 and in some case presented specific formats with which to include the data. The
22 Company made every effort to be responsive in supplying this data. However,
23 with the volume of information involved, the Company’s interpretation of what

1 was being requested and staff's interpretation of what had been submitted perhaps
2 inevitably led to differing conclusions.

3 It was the Company's belief that it was not the intent of the Commission
4 to micro-manage the LDC's business in the state of Missouri. However, it is
5 becoming increasingly difficult to believe that is the case given the number of the
6 data requests from Staff and the level of detail requested. Countless man hours
7 have been spent over the past several months answering data requests that allow
8 Staff the opportunity to review at length and perform one analysis after another
9 that does little, in the Company's opinion, to determine prudence.

10

11 **Q. DO YOU AGREE WITH MS. JENKINS STATEMENT IN HER REVISED**
12 **DIRECT TESTIMONY PAGE 9, LINES 5-7, THAT POOR CHOICES**
13 **WERE MADE IN MANAGING OPERATIONS DURING THE HEATING**
14 **SEASON, AND ONE OF THE REASONS FOR THIS MAY BE THE**
15 **INCONSISTENT AND CONFUSING INFORMATION AVAILABLE?**

16 A. Absolutely not. I do not agree that poor choices were made in managing
17 operations during the heating season, and I certainly do not agree that the
18 information available was confusing and inconsistent. Although, looking back, it
19 can be argued, from a purely analytical perspective, that other decisions could
20 have been made, if the same conditions existed today, the Company would make
21 the same decisions today. To do otherwise would be imprudent.

22

1 **Q. DOES THE COMPANY BELIEVE THAT HEDGING HAS A ROLE AS**
2 **AN ELEMENT OF A GAS SUPPLY PORTFOLIO?**

3 **A.** Yes. Under reasonable circumstances hedging can provide utility customers a
4 level of protection against price volatility.

5

6 **Q. COULD YOU EXPLAIN YOUR UNDERSTANDING OF “REASONABLE**
7 **CIRCUMSTANCES” AS YOU USE THT TERM?**

8 **A.** Yes. A utility must have sufficient guidance from the Commission prior to
9 engaging in a broad hedging program. It is unreasonable for regulators to
10 determine the rules after the game has been played. If Staff expects that certain
11 parameters should be achieved during a heating season, those parameters should
12 be communicated to the utility with sufficient time to implement them.
13 Otherwise, such parameters are nothing more than arbitrary guidelines derived
14 through hindsight.

15

16 **Q. DO YOU AGREE WITH STAFF’S CONCLUSION THAT 30% OF**
17 **NORMAL REQUIREMENTS, AS A MIMINUM LEVEL OF HEDGING**
18 **FOR EACH MONTH OF NOVEMBER 2000 THROUGH MARCH 2001, IS**
19 **REASONABLE?**

20 **A.** No. Staff has made no effort to provide the Company with any test of
21 reasonableness regarding a minimum level of hedging. Staff makes the statement,
22 after the fact, that hedging 30% of normal requirements is reasonable for each
23 month of November 2000 through March 2001. However, Staff did not provide

1 the Company with any guidance for what they believe is a reasonable hedging
2 level prior to that period. It is also important to note that the Company has visited
3 and met with Staff members each year for the past two years to discuss hedging.
4 There was no prescribed percentage or amount provided by Staff at those times.
5 The overall response or tone could be described as “do what you feel is
6 reasonable.” Only after the winter has passed, and Staff is equipped with precise
7 historical information, do they state what a reasonable level of hedging should
8 have been. Staff is also quick to point out that this level should not be relied upon
9 by the Company in the future. The Company must make hedging and gas supply
10 decisions prior to encountering each winter month, not knowing what the weather
11 or the commodity prices will be.

12 Company strongly objects to Staff determining what a reasonable level of hedging
13 should have been two years after the winter period is over. Such an approach is
14 unreasonable and unprecedented. If it is Staff’s decision to provide no guidance
15 regarding hedging prior to each winter period, the Company is certainly
16 comfortable with that approach and will rely on its own expertise and experience
17 in developing and implementing a hedging program. However, once that has
18 been done, and absent any direction from Staff, the Company should not be
19 presented with an arbitrary hindsight critique of what hedging levels Staff
20 considers to be reasonable.

1 Q. DO YOU HAVE COMMENTS ON OTHER ISSUES RELATING TO
2 STAFF'S DIRECT TESTIMONIES?

3 A. Yes, and I will address them now.
4

5 Q. PLEASE CLARIFY THE COMPANY'S POSITION ON SUBMITTING
6 THE REQUESTED POLICIES AND PROCEDURES FOR THOSE
7 RESPONSIBLE FOR NOMINATING NATURAL GAS.

8 A. The Company stated that it would be duplicative in nature to submit what has
9 already been submitted to the Engineering and Management Services Department
10 (EMSD). In the audit, one of EMSD's recommendations was that the Company
11 "Document the policies, procedures and practices of the gas procurement process
12 into a single source manual." The Company submitted an action plan to respond
13 to the recommendation which states as follows: Gas Supply will develop a single
14 source manual which will be comprised of multiple sections including: (1)
15 Supply Department Policies; (2) Procedures for complex tasks (i.e. RFP
16 procedure, bid evaluation procedure, invoice log procedure, nomination
17 procedures, bidder qualification procedure, various gas control procedures, etc.;
18 (3) General Supply Information (i.e. pipelines, system schematics, contract info,
19 storage information, current suppliers, etc.); and (4) Department specific (org
20 chart, job descriptions, mission statement, goals, etc. This process is currently in
21 progress. The Company believes that once this is completed, the staff could
22 review the progress in follow up status reports.
23

1 **Q. STAFF HAS CONCERNS THAT THE SCOPE OF THE EMSD AUDIT**
2 **WOULD NOT BE SUFFICIENT. WHAT DO YOU THINK?**

3 **A.** I do not agree that is a valid concern. The Company plans to have fairly detailed
4 procedures when the process is completed. However, I do not believe that Staff's
5 request for written information on routine communication between parties that
6 occur daily such as nomination deadlines, pricing information, demand forecasts,
7 end-user analysis, storage targets, storage telemetry info, etc., is reasonable or
8 necessary. The Company believes that this level of detail would place an undue
9 burden on it by causing it to spend an inordinate amount of time gathering and
10 compiling such information. The Company also believes that balancing the
11 needs of the Company and the Staff in the best interest of our customers is
12 paramount and that a good working relationship between the Company and Staff
13 is critical to this process. However, the Company simply cannot see how
14 providing information in such a level of detail provides information to assist Staff
15 or is a benefit to our Missouri ratepayers. The time involved in responding to the
16 routine voluminous data requests and in the Company's opinion micro-
17 management, can only result in the Company staffing additional full-time
18 employees dedicated to Missouri resulting in higher rates for our Missouri
19 customers.

1 **Q. IN MS. JENKINS REVISED DIRECT TESTIMONY PAGE 24, LINES 18-**
2 **23 AND PAGE 25 LINES 1-6, SHE STATES THAT THE COMPANY DID**
3 **NOT STATE ITS POSITION IN RESPONSE TO RECOMMENDATION**
4 **NO. 1 RELATING TO DEMAND COST DISALLOWANCE FOR THE**
5 **BUTLER AND PIEDMONT SYSTEM. HAS THE COMPANY STATED**
6 **ITS POSITION ON THIS RECOMMENDATION?**

7 **A.** Yes. The Company did state its disagreement and reasons for disagreement in
8 Mr. Hack's Direct Testimony, page 43, lines 20-23 and page 44, lines 1-11.
9

10 **Q. IN MR. LOCK'S REVISED TESTIMONY PAGE 6, LINES 5-12, HE**
11 **STATES THAT THE COMPANY HAS NOT RESPONDED ON THE**
12 **TETCO STORAGE ADJUSTMENT ISSUE SINCE STAFF PROVIDED**
13 **WORKPAPERS. WHAT IS THE COMPANY'S RESPONSE?**

14 **A.** After reviewing staff's workpapers on the TETCO storage adjustment, the
15 Company agrees with staff's adjustment.
16

17 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

18 **A.** Yes.
19