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 Implement a General Rate Increase for Natural Gas Service in the Missouri Service Area of the Company.	))))	**Case No. GR-2006-0387**

PREHEARING BRIEF OF ATMOS ENERGY CORPORATION

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Atmos Energy Corporation ("Atmos" or "Company") respectfully submits its Prehearing Brief in accordance with the Commission's *Order Concerning Test Year and True-Up and Adopting Procedural Schedule with Modifications* and *Order Changing Hearing Dates and Setting Out Procedures*, issued in this matter on June 2 and November 8, 2006, respectively. Pursuant to the Commission's *Order* of June 2, 2006, Atmos' Prehearing Brief will incorporate its Statement of Position on the issues in dispute, such issues being set out in the "Joint Issues List, List of Witnesses and Order of Cross-Examination" filed by the Staff of the Commission ("Staff") on November 14, 2006.

I. INTRODUCTION

Atmos is the largest pure natural gas distribution company in the United States, with corporate offices located in Dallas, Texas. The Company is comprised of six gas utility operating divisions, and its Mid-States Division (located in Franklin, Tennessee) provides natural gas distribution service in Missouri, Tennessee, Virginia, Georgia, Kentucky, Illinois and Iowa.[1] Regional and state offices for the Missouri operations are located in Hannibal, Jackson and Sikeston. Atmos serves approximately 60,000

[1] Atmos reorganized and consolidated the Kentucky Division into the Mid-States Division after Direct Testimony was filed in this proceeding.

customers in Missouri, and the customer base includes residential, commercial and industrial customers. Employing a Missouri-based work force of approximately 75 employees, Atmos' utility plant in Missouri includes over 2,150 miles of transmission and distribution lines. (Paris Direct, pp. 4-5, 10).

Atmos' Missouri operations are comprised of seven districts located in the northeast, southeast and west-central areas of Missouri, and are the result of the following acquisitions: Greeley Gas Company ("Greeley") purchased in 1993; United Cities Gas Company ("UCG") purchased in 1997; and Associated Natural Gas Company ("ANG") purchased in 2000. (Paris Direct, p. 3; Staff Witness Ross Direct, pp. 1-2).

Atmos had not filed for a rate case since acquiring these Missouri service areas, so the rates for each district were set when the preceding LDC had its last rate case. The last rate request in Missouri was filed in 1994 by UCG, and rates were approved and implemented in 1995. The last rate increase affecting the utility properties the Company acquired from ANG was filed, approved and implemented in 1997. (Paris Direct, p. 5; Ross Direct, p. 3).

While the Company makes every effort to provide service as efficiently as possible and is proud of its well-deserved reputation as one of the lowest cost providers of natural gas in the United States, since the last UCG rate case the Company has invested more than $22 million in direct Missouri gross plant, including additions since the acquisition of the ANG service areas. Atmos has also made significant technological investment in Shared Services general plant such as the customer call center and billing system since its last rate case. On April 7, 2006, Atmos filed revised tariff sheets which set forth revised rate schedules and certain revised charges for all of Atmos' service territories in the state of Missouri, designed to produce an increase of approximately $3.4 million in new revenues for the Company. The new rate schedules would increase revenues to provide an overall rate of return on rate base of 8.59% on the test year rate base of $56.0 million. (Paris Direct, pp. 5-6, 10-11). The Company's requested rate of return on common equity in this case is 12%. (Murry Direct, pp. 29-31).

In accordance with Commission Orders, local public hearings, a rate design technical conference and a settlement conference were held in this matter, in which Atmos actively participated. As discussed in the Rebuttal Testimony of Atmos Witness Patricia J. Childers, the Company has thoroughly reviewed and compared its direct case with Staff's direct case, analyzed and compared the various adjustments to the test period in both cases and considered the impact of the Staff's proposed rate design in connection with other issues addressed by Ms. Childers in her rebuttal testimony. The Company has concluded after its analysis that if the Commission approves Staff's proposed rate design and resolves the other issues in a manner consistent with the Company's position as set forth in its rebuttal testimony, that it will have a reasonable opportunity to earn a fair return at the revenue requirement that its current tariffs are designed to collect. (Childers Rebuttal, p. 9). Indeed, as Ms. Childers expresses in her Surrebuttal Testimony, "After reviewing Staff's rebuttal testimony, it appears that Staff and Company have no areas of disagreement remaining in this case." (Childers Surrebuttal, p. 2).

II. LIST OF ISSUES

1. **What is the appropriate revenue requirement?**
   a. **What is the appropriate level of expense?**
   b. **What is the appropriate rate of return / return on equity?**
   c. **What is the appropriate level of revenue excess / deficiency?**

Regarding the appropriate revenue requirement in this proceeding, as referenced above, Atmos Witness Patricia Childers has testified that Atmos and the Staff have reached a common recommendation regarding the issue.

> After careful analysis, Atmos, in connection with the additional issues that I will discuss later in my testimony, would accept no revenue increase in this proceeding if the Commission were to accept the Delivery Charge rate design as described in Commission Staff witness Anne Ross' direct testimony. (Childers Rebuttal, p. 3).
>
> After reviewing Staff's rebuttal testimony, it appears that the Staff and Company have no areas of disagreement remaining in this case. Specifically with regard to the overall revenue requirement, I would note the consistency between my rebuttal testimony on page 3, line 13-18, and Staff witness Stephen M. Rackers' rebuttal testimony page 2, lines 16-18, where he states, "The Staff believes that no change in cost of the service, on a total company basis, will still result in just and reasonable rates as a result of this case." (Childers Surrebuttal, p. 2).

While the Office of the Public Counsel ("OPC") did not file any direct testimony in this case regarding the overall revenue requirement, its accountant, Mr. Trippensee, has sponsored cost of common equity rebuttal testimony suggesting that the Commission use a 7 percent return on equity in this proceeding. Regarding this punitive reaction to Staff's Delivery Charge rate design, Atmos Witness Dr. Murry observes: "That is not analysis; this is just unorthodox opinion." (Murry Surrebuttal, p. 3). Both Staff Witness Matthew Barnes and Atmos Witness Dr. Murry thoroughly rebut the Trippensee "calculation." (*See*, Surrebuttal Testimony of Matthew J. Barnes and Surrebuttal Testimony of Donald A. Murry, Ph.D.)

> Mr. Trippensee's recommendation is not supported by a commonly accepted rate of return analysis. He did not analyze the cost of common equity of companies that may have similar risk characteristics as those that may be in effect for Atmos' Missouri operations if the Company's or Staff's rate design proposal is accepted. In fact, he did not even recognize that many of my comparable companies have weather mitigation rate designs that minimize risks related to changes in the weather. Mr. Trippensee's methodology is not supported by any authoritative sources regarding a cost of capital analysis. As far as Staff is aware his methodology has never been presented to the Commission. (Barnes Surrebuttal, p. 2).

As Dr. Murry explains in detail in his Surrebuttal Testimony, contrary to Mr. Trippensee's criticism of Mr. Barnes' analysis for purportedly not considering the fixed charge rate design change proposed by Staff, "seven of the eight companies that Mr. Barnes identified as comparable to Atmos Energy operate under some type of revenue stabilization mechanisms for their residential and small commercial customers." (*See*, Murry Surrebuttal, pp. 4-6).

2. What is the appropriate treatment of depreciation and should depreciation expense be reduced by a depreciation reserve amortization?

Staff Witness Guy Gilbert makes recommendations regarding depreciation and the Company's continuing property records. Atmos finds these recommendations acceptable, with the exception of the non-compliance recommendation which suggests that the Commission should order Company to comply with the Commission's rules regarding plant record keeping and that Company should be ordered to file data to demonstrate compliance. The Company believes that the non-compliance recommendation should be limited to the continuing property records that were converted from prior acquisitions. The Company is willing to address the vintage portion of the records related to assets that were converted out of legacy systems of prior predecessor companies into Atmos plant record system and to prepare a plan to resolve the problem. Further, Atmos is willing to meet with Staff and obtain their concurrence that the plan will resolve Staff's concerns, as well as submit a completion report. If the improvement plan is not completed by the end of the first quarter following completion of this docket, Atmos would file quarterly status reports with the Staff until the plan is completed. (Childers Rebuttal, pp. 8-9). It is anticipated that the resolution of these issues will be completed prior to the next case filed by Atmos and that the "negative amortization" issue that OPC Witness Trippensee finds objectionable will no longer be an issue. (Childers Surrebuttal, p. 3).

3. What is the appropriate rate design?

a. What is the appropriate rate structure for residential, small, and medium general service?

b. What is the appropriate structure for the small general service rate (including the medium general service rate if the small general service class is split)?

While the Company's original rate design proposal embodied a Weather Normalization Adjustment ("WNA"), after careful consideration of the Staff's Delivery Charge proposal, the Company supports the adoption of the Staff's rate design recommendations in lieu of the WNA. Atmos does recommend one minor modification to the Staff proposal by seasonally sculpting the fixed monthly Delivery Charge, as discussed in Company Witness Gary Smith's Rebuttal Testimony. (*See*, Schedule 1 to Smith Rebuttal Testimony).

Atmos opposes the rate design proposal advocated by OPC Witness Meisenheimer, which would essentially maintain the status quo. Company and Staff have fully rebutted the alleged concerns voiced by OPC in this matter. (*See*, Surrebuttal Testimony of Anne Ross and Surrebuttal Testimony of Gary L. Smith).

The Company is committed to educating customers about the Delivery Charge prior to and during implementation to ensure that they are aware of it and assist in their understanding of it. (Childers Surrebuttal, p. 5).

In addition, the Company has reviewed Staff witness Anne Ross' rebuttal testimony (page 11) encouraging the Company to initiate an energy audit program which would be made available to all residential customers. Ms. Ross also recommends the development of a home weatherization program for at least 30 low income customers on an annual basis. Atmos agrees to implement these programs as described by Staff. (Childers Surrebuttal, p. 6).

Having reviewed Commission Staff witness Ross' proposed customer classes (Page 5; Line 11-23 of Ms. Ross' direct testimony) including the proposal to split the general service class into a small and medium non-residential customer class and setting the classes on a uniform basis across the entire state, the Company has concluded that it would be appropriate to have statewide classes on a uniform basis and to break the non-residential general service into a small class and medium class. (Childers Rebuttal, pp. 3-4).

Utilizing Staff's billing determinants in this case, the Company has developed a set of rates based on uniform statewide classes and non-gas rates in three geographic areas utilizing the sculpted residential Delivery Charge rate design proposed by Mr. Smith in his rebuttal testimony and the Delivery Charge rate design proposed Ms. Ross for small and medium non-residential general classes. The Company then evaluated the impact of these rates on each of Atmos' existing rate districts and the residential, small general, and medium general classes within each district. Attached to Ms. Childers' surrebuttal testimony is PJC SURREB – 1 which is a summary of the rates that would be implemented if these rates, which are consistent with both Atmos' and Staff's positions, are adopted by the Commission. Also attached to Ms. Childers' surrebuttal testimony is PJC SURREB -2 which is the class level impact.

4. What are the appropriate miscellaneous charges (activation charges for connection, reconnection, and transfer; late payment, NSF, and seasonal reconnection)?

Atmos is willing to accept Commission Staff Witness Ensrud's recommendations related to miscellaneous utility-related charges and his recommendation regarding a reconnection fee to offset any Delivery Charges avoided by customers due to being disconnected from the system. Mr. Ensrud's miscellaneous utility-related charges are outlined in his testimony on page 3, line 6 (NSF fee $15); page 5, line 14 (connection/reconnection); page 6, line 1 (transfer of service). Mr. Ensrud's avoided delivery charge reconnection proposal is outlined in his testimony beginning on page 18 (line 5) and continuing to page 20 (line 6). The avoided delivery charge would be a combination of the standard reconnection fee plus a formula that determines the actual delivery charges avoided by disconnecting service for a number of months during the year. In addition, the Company is willing to provide annual reporting to the Commission regarding voluntary (seasonal) shut-offs as determined by service order codes in the Company's billing system. The purpose of this reporting will be to try and assist in ascertaining any impacts related to seasonal disconnections on customers resulting from the implementation of the Delivery Charge rate design.

Although OPC Witness Meisenheimer does not offer any type of adjustment to the Company's revenue requirement to adjust for seasonal customers, she believes that it is appropriate to allow customers to disconnect during the non-winter months and not pay for the costs associated with providing utility service. It is the Company's position that the Commission should reject her position and adopt the miscellaneous utility charges recommended by Staff Witness Ensrud. (Childers Rebuttal, p. 5; Childers Surrebuttal, p. 5). (Atmos Direct Testimony of Michael H. Ellis). (*See also*, Ensrud Surrebuttal, pp. 4-7, 11-13).

5. Should the Company's districts be consolidated for purposes of setting margin non-gas rates in this case?

Staff's proposal to consolidate base rates into three geographic areas (Ross Direct; page 4; lines 7-18 and page 5; lines 1-4) is very similar to the Company's recommendations offered in the direct testimony of Company Witness Childers (page 11; lines 5-10; page 13 lines 9-29), and Atmos supports Staff's proposal. (Childers Rebuttal, p. 4).

6. Should the Company's PGA tariffs be consolidated for purposes of setting gas rates in this case?

Staff's proposal to consolidate the PGA into four areas (Staff witness Imhoff; page 8 line 13-26; page 9 lines 1-8) is also acceptable to Atmos. Although Atmos proposed a statewide consolidation in regards to the PGA, consolidation of the four areas identified by Staff's direct testimony is certainly an important step in the right direction. (Childers Rebuttal, p. 4).

OPC Witness Ms. Meisenheimer opposes any PGA consolidation. Although the four PGA areas don't align exactly (Kirksville is the exception) with the geographic non-gas rates, they are substantially the same in most areas, and therefore the benefits of bill comparability will be achieved if the Commission adopts the four areas as recommended by Staff and Atmos. Consequently, the Company believes that OPC's 'status quo' regarding PGA's should be rejected. (Childers Surrebuttal, pp. 4-5).

7. **Other Tariff Issues:**
   a. **Should a cash-out policy be implemented?**
   b. **Should the Commission allow third party administered pools for cash-outs?**
   c. **What is the appropriate level of lost and unaccounted gas?**
   d. **Should the Commission approve an Economic Development Rider?**
   e. **Should the mains extension policy and the determination of amounts to be charged be changed in this case?**

Staff Witness Ensrud's position is consistent with Atmos' position regarding changes to its transportation tariffs (Kerley Direct, page 3, line 16 and following), although Mr. Ensrud does propose some minor changes to the "cash-out" provisions of the transportation section (Ensrud Direct, page 10, line 6-20). Atmos has no objection to incorporating this additional language into its transportation tariffs. (Childers Rebuttal, p. 6). The consistency between Mr. Ensrud's acceptance of Atmos' proposed transportation tariffs includes the proposed change to third party administered pools for cash-outs.

Staff also appears to support Atmos' proposal to have a uniform lost & unaccounted (L&U) for rate of 2% as described on page 56 of Atmos' proposed tariffs in this proceeding (Ensrud Direct, page 11, line 11), although Mr. Ensrud does qualify his position on L&U with some reporting conditions that he believes should be imposed on the Company (Ensrud Direct, starting at page 11, line 16 and continuing to page 12, line 4). Atmos does oppose the suggestion of imposing fines at the end of a two-year period, as Atmos believes that any concerns related to L&U can be addressed through reporting. However with a large number of interconnection points from upstream pipelines and nearly 60,000 delivery points out of the system, it is an issue that cannot be quickly resolved. Atmos is committed to keeping Staff informed of its progress in getting this issue resolved in a cooperative manner. (Childers Rebuttal, p. 6).

Staff's testimony (Ensrud Direct) also supports Atmos' proposed Economic Development Rider ("EDR") (Atmos Witness Kerley Direct, page 2 and following). In his Surrebuttal Testimony, Staff Witness Ensrud appropriately rebuts the alleged concerns raised by OPC Witness Meisenheimer concerning Atmos' proposed EDR. (*See*, Ensrud Surrebuttal, pp. 9-11).

Staff advocates only one exception to the Company's main extension policy by proposing additional language (on page 14, line 5-20 of Staff Witness Ensrud's Direct Testimony) regarding refunds. Atmos accepts Commission Staff's position and is willing to add the language to the final tariffs approved in this case. Again, Staff Witness Ensrud rebuts concerns expressed by OPC Witness Meisenheimer regarding this issue. (Ensrud Surrebuttal, pp. 8-9).

III. RESOLVED ISSUES

The Parties have identified the following issues as being resolved:

1. Billing Determinants
2. Research and Development Rider
3. Noranda (all issues)
4. Class share of revenue by district
5. Uncollectables in the PGA
6. Customer Service Issues
7. Class Cost of Service

IV. CONCLUSION

As fully described herein, a review of the Rebuttal and Surrebuttal Testimony of both the Staff and Atmos clearly reveals that these two parties have no areas of disagreement remaining in this case. While the Office of the Public Counsel continues to object to the Delivery Charge rate design proposal advocated by the Staff, such objections have been thoroughly rebutted by the prefiled testimony of Staff and Company witnesses. Resolution of this issue in favor of the Staff's and Atmos' position will be just, reasonable and in the public interest. As stated by Staff Witness Ross:

> Staff believes that its rate design is a simple, understandable, appropriate recovery mechanism that de-couples the cost of serving the customer from the customer's energy consumption. . . . I want to point out that this is a wonderful opportunity for this Commission to do a great deal of good for a great number of people. . . . We have an opportunity in Missouri to align the interests of shareholders and customers. (Ross Surrebuttal, pp. 11-12).

The Company strongly urges the Commission to seize the opportunities discussed above, and reject the positions of the OPC now advocated in this matter.

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 17th day of November, 2006, to all counsel of record in this matter.