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

STAFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and, in accord with the Commission's June 2, 2006 *Order Concerning Test Year and True-Up and Adopting Procedural Schedule with Modifications*, and its January 4, 2007 *Order Granting Motion To Extend Filing Date*, which reset the filing of proposed findings of fact and conclusions of law to January 19th, states:

The following proposed findings of fact and conclusions of law are being submitted pursuant to the procedural orders in this case. The proposed finding of fact are organized in the same manner as the Staff's Post-Hearing Brief, filed this same date, which addresses the contested issues of this case as those issues were set forth in the Novermber 14, 2006 *Joint Issues List, List of Witnesses and Order of Cross-Examination* that was filed by the Staff on behalf of the parties to this case. The proposed conclusions of law are grouped at the end of the document.

The November 14th *Joint Issues List* identified certain issues as resolved among the parties. In addition to these identified resolved issues, Atmos Energy Corporation (Atmos or Company), the Staff, and the Office of the Public counsel (OPC), filed on November 29, 2006, their *Partial Non-Unanimous Stipulation and Agreement* (Stipulation), which sets forth more thoroughly these and other issues settled among the parties. On December 12, 2006, the Staff filed its *Memorandum in Support of the Stipulation*, and no party to this case filed a response.

Therefore, pursuant to 4 CSR 240-2.115(2)(C), because no parties objected within seven days to the Partial Non-Unanimous Stipulation and Agreement (Stipulation), the Commission may treat this Stipulation as a unanimous stipulation and agreement.

Proposed Findings of Fact

The Missouri Public Service Commission, having considered all of the competent evidence upon the whole record, makes the following findings of fact:

I. Revenue Requirement

A. Level of Expense
B. Rate of Return / Return on Equity
C. Level of Revenue Excess / Deficiency

Based on the evidence adduced in this proceeding, the Commission finds that there is zero net additional revenue requirement necessary in order for Atmos to achieve its stipulated gross annualized revenues of $16, 507,737.

Atmos' gross annualized revenues of $16,507,737 is stipulated by the parties in the Partial Non-Unanimous Stipulation and Agreement, Attachment A, which by operation of law, may be treated as a unanimous stipulation and agreement.

The Commission's approval of the Stipulation will provide the authority for the Company to earn its annualized gross revenues of $16,507,737.

II. Depreciation and Reserve Amortization

Depreciation

The Stipulation, which by operation of law is unanimous, resolves the depreciation issues among the parties in this case.

The Commission's approval of the Stipulation will provide the authority for the parties to carry on the processes agreed to by the parties so that the parties may complete the terms of the agreement.

Reserve Amortization

Staff recommends that, as a whole, the annual depreciation accrual should be reduced by approximately $591,000. Staff has recommended this approach in numerous past cases as a reasonable method of adjusting a depreciation reserve. This approach is implemented by the Company entering a negative amortization of $591,000 to the depreciation reserve account 108. This provides an immediate benefit to Atmos' customers by lowering the Company's depreciation expense to a level Staff believes is appropriate.

Although there might be different methods of achieving the same goal, with this approach, future rates to customers will be less than if the Staff attempted to reflect the negative amortization in lower depreciation rates. This method of amortization has often been used by both Staff and companies to offset depreciation over and under accruals in reserve account 108.

In this instance, the amortization will offset an over accrual to the depreciation reserve. In addition this amortization does not cause any harm to past, present, or, future ratepayers or shareholders.

III. Rate Design

A. Rate Structure for Residential, Small, and Medium General Service

B. Rate Structure for the Small General Service (SGS) Rate (including the Medium General Service Rate if the Small General Service Class is Split)

Staff's fixed delivery charge is a paradigm shift from traditional two part rate design because, under Staff's proposal, all non-gas margin costs are recovered in one fixed monthly charge. This type of fixed delivery charge is often termed a "straight fixed variable" rate design.

Non-gas margin costs make up only a portion of a residential customer's bill. The actual gas cost portion of the bill, called the PGA, makes up the rest, and for an average customer, this is about 80% of the total.

Under the traditional rate design, residential non-gas margin costs are collected using both a monthly customer charge, which does not vary with usage, and a volumetric charge levied on each CCF consumed.

OPC supports this "two part" rate design (also called the "status quo" rate design in this proceeding).

Under Staff's proposed fixed delivery charge, all of Atmos' non-gas margin costs, termed the "cost of service", are collected in a fixed monthly charge. Each of Atmos' three service areas, Western Missouri (WEMO), Northeast (NEMO), and Southeast (SEMO), will have a unique fixed delivery charge that is based, per the Stipulation and Agreement, on the residential customers' current revenues within that geographic service area[1].

Staff's proposed fixed monthly delivery charges, based on stipulated billing determinants in the context of a zero revenue increase rate case, are as follows:

SEMO (includes Neelyville)	$13.92 / month
WEMO (Butler and Greeley)	$19.43 / month
NEMO (Kirksville; Palmyra; Hannibal; Canton; Bowling Green)	$20.61 / month

The "Status Quo" Rate Design treats higher usage customers unfairly

The current rate design, with its volumetric component, results in higher-use residential customers paying more, *on the margin*, than lower-use residential customers.

There is no cost basis on which to charge residential customers different amounts of non-gas margin costs under the traditional two part rate design. The cost of providing residential gas service to both high-use and low-use customers is not dependent on the amount of volume flowing into the residence.

[1] The parties agreed to no revenue shifts among the classes and to billing determinants (Attachment A, representing the weather-normalized class test year revenues) in the Partial Non-Unanimous Stipulation and Agreement filed November 29, 2006.

There is no difference in the utility's cost to serve high-use and low-use customers. The same plant investment must be made for both users, and there is no difference in billing, meter-reading, and other expenses.

Residential customers can easily change their end-use of natural gas. It would be imprudent for the utility to not include this possibility in its planning. Accordingly, the utility makes plant and equipment decisions based on the full range of a residential customer's possible usage, rather than the customer's specific current end-use.

Atmos incurs the same expenses to serve a customer regardless of whether the customer uses 1 Ccf per year or 1000 Ccf per year, because bills must be mailed, meters read, equipment maintained, etc.

Rates are set on the basis of an average customer's normalized usage, which means that a customer using exactly that amount will pay the true cost of service.

Under the "status quo" rate design (which includes both a customer and a volumetric charge), customers using more gas pay more than the true cost to serve them; customers using less, pay less than their true cost of service. Such non-gas cost charges unfairly discriminate against high-use gas customers.

<u>Staff's Proposed Fixed Delivery Charge corrects this inequity</u>

Under Staff's fixed delivery charge, each Atmos customer in a particular service territory will pay the same for residential gas service, regardless of how much gas flows that customer uses. For customers using more than the normalized average annual gas usage, they will see an increase, on an annual basis, of a few dollars in the summer months, offset by an even greater decrease in gas bill during the winter months. These higher-use customers will see an overall *lower* annual bill than they will if OPC's "status quo" rate design proposal is adopted.

Customers using less than the normalized average usage will see a small dollar increase in the summer months, and depending on the customers' total gas usage levels, might also see an increase in the winter months.

The "status quo" rate design treats customers in neighboring districts unfairly

Atmos' Missouri operations is an amalgamation of 3 separate "legacy" companies, formed over a period of time, and spread across 3 geographic service areas (termed NEMO, SEMO, WEMO). The sheer complexity of the rates and tariffs set long ago in these 7 districts, belonging to 3 former companies, in 3 diverse geographic areas, creates great confusion. Such historical complexities render it nearly impossible to explain to Atmos' customers why everyone pays something different for their cost of service (the non-gas margin costs).

Greeley Gas Company (in WEMO area) was purchased by Atmos in 1993. Its rates were set in 1993 in an application case.

United Cities Gas Company (UCG) was purchased by Atmos in 1997. The largest district of UCG includes Hannibal, Canton, and Bowling Green. Before Atmos bought UCG, UCG had acquired Palmyra district from the company that is now Missouri Gas Energy. UCG also owned and operated a district in SEMO area called Neelyville. Legacy UCG operations of Atmos were located in *both* NEMO and SEMO areas. The last rate case governing UCG Missouri properties was filed in 1994 and implemented in 1995.

Associated Natural Gas Company (ANG) was purchased by Atmos in 2000. The ANG Missouri properties were also geographically separated. One ANG district included the area surrounding Butler, Missouri (part of WEMO area). ANG also had operations in the bootheel area called the SEMO district, and operations serving the Kirksville district located in the NEMO area. ANG filed its last rate case for its Missouri properties (WEMO, NEMO, and SEMO areas) in 1997, and rates were implemented that same year.

The current customer charge and gas volumetric charge for each of Atmos' seven "legacy" operating districts vary widely. The customer charge ranges from a low of $5.00/month in Greeley, to a high of $9.05/month in Palmyra. The volumetric gas charge ranges from a low of $.07495 per CCF in Palmyra, to a high of $.31920 per CCF in Greeley. This wide assortment of "historical" customer and volumetric charges, which are spread across seven districts, forces Atmos' customers to over-pay or under-pay their non-gas margin costs. The current charges do not reflect Atmos' true cost of providing gas service to its residential customers in the Company's three geographic service areas (NEMO, WEMO, and SEMO).

This set up is not only administratively complex, but it is also unfair to customers, because it results in a large disparity in the amount customers in adjoining cities or counties pay for their margin, or non-gas costs. Staff witness Ross testified credibly at hearing that no cost of service studies justify the 'old' rates, they were set somewhere in a range of reasonableness.

Staff testified that the cost for Atmos to serve similarly situated customers in neighboring districts, such as the combining of three adjoining northeast Missouri districts into one service territory, is about the same. As described above, Atmos is an amalgamation of three predecessor companies formed over a period of years that include seven "legacy" operating districts. Atmos does not buy equipment, such as meters or mains, in quantities intended to serve just one "legacy" district. Atmos service employees serve *all* of Missouri, in each of its geographical service areas. Corporate overhead expenses associated with serving a residential customer do not distinguish which "legacy" district that customer lives in. While there may be some difference in costs due to the vintage of the distribution equipment in various "legacy" districts at any given point in time, the Company's cost to provide service today to a geographical area do not differ.

Any Company attempt to collect and break out its costs to serve each of seven "legacy" districts is unnecessary - particularly in light of the reasonableness of combining these seven districts into their natural geographic service area. Moreover, the Company informed Staff that the cost of meters, regulators and service lines is the *same* for all districts. Also, when a customer calls Atmos customer service, the call is first answered by a Company representative located in one of three out-of-state call centers. If that call cannot be addressed, then it is routed to one of seven Missouri call centers which serve the surrounding area. These calls are routed without regard for the predecessor company which served that area 10 years ago. Related billing and customer service costs do not vary among the Company's current seven districts.

Staff witness Ross credibly testified the only fair policy is one where no customer subsidizes another – all residential customers in a geographic area should share equally in paying the true cost of service in the form of a fixed delivery charge.

Public Counsel's "status quo" rate design does not accept today's cost realities. The "status quo" rate design, which relies heavily on recovering costs through the volumetric charge, makes some customers pay more than their fair share, and others pay less than their fair share of costs. By so doing, the Public Counsel imposes a financial injustice on its clients. OPC witness Meisenheimer's testimony is not credible because it offers no solutions to the unfairness and disparity of how much non-gas margin customers pay when the Company's cost of serving all residential customers is the same, regardless of how much gas is used.

<u>The OPC "status quo" rate design adversely impacts customers</u>

Looking at Exhibit 142, at a usage level of 720 Ccf, Kirksville customers would pay annual non-gas margin costs of $138; Palmyra customers would pay $163; and, at the *same* usage and level of service, Hannibal/Canton/Bowling Green customers would pay a whopping

$269.[2] This difference results from negotiated settlements that reflect past operational realities of predecessor companies that ceased operations some time ago.

Under OPC's "status quo" rate design, the Hannibal / Canton / Bowling Green customers will continue to overpay for the same gas service provided by Atmos to their Kirksville neighbors.

Staff witness Ross credibly testified that the Hannibal / Canton / Bowling Green customers should not pay *nearly double* what their Kirksville neighbors pay for Atmos to provide gas service to their homes.

OPC witness Meisenheimer contends it is appropriate for Hannibal / Canton / Bowling Green customers (using 720 CCF/year, a usage level chosen for purpose of comparison) to pay $106 *more* a year than the Kirksville customer pays for the same amount of gas – even though this cost differential results from unsupported past realities of predecessor companies.

OPC contends it is right for some customers to pay substantially more than others because of "…the historic cost and other considerations that have occurred over time to result in the embedded cost." The problem, however, is that the "historic" costs relied on by OPC cannot be located; and, even if they existed, OPC does not support why some customers pay significantly more than their neighbors pay for the same service from the same company.

This non-gas cost difference is present in all three service territories. In a comparison of bills for gas customers in Staff's proposed WEMO service territory, Butler customers now pay $213 / year non-gas margin costs. Greeley customers, on the other hand, pay $290/year non-gas margin costs for the same (720 CCF) amount of gas.

Finally, bill comparisons for gas customers in the proposed SEMO service territory using an assumed annual level of 720 CCF, show that: Neelyville customers now pay $269 / year non-

[2] These numbers are based on an annual bill of 720 CCF.

gas margin costs, and neighboring SEMO district customers pay $174 / year non-gas margin costs for the same (720 CCF) amount of gas.

Consolidate the current seven districts into three service territories

Staff proposes, for the purpose of setting non-gas margin rates, that Atmos' seven current districts be combined into three geographically distinct service territories, as touched on in both in the Rate Design issue findings above and the District Consolidation issue findings below:

NEMO (Northeast Missouri): combines "legacy" Kirksville, Palmyra, Hannibal / Canton / Bowling Green districts;

SEMO (Southeastern Missouri): combines "legacy" Neelyville and SEMO districts; and,

WEMO (Western Missouri): combines "legacy" Greeley and Butler/Rich Hill districts.

Atmos has adopted Staff's proposal to consolidate these seven "legacy" districts into three geographical service areas for the purpose of setting non-gas margin rates in this case.

The Staff's proposed fixed delivery charge and district consolidation impact on the average customer's bill is favorable

These bill impacts, as credibly testified by Staff witness Anne Ross, shows the dollar impact of Staff's fixed delivery charge rate design AND district consolidation proposal compared to the "status quo" design sponsored by OPC. Dollar impact is shown for customers with annual usage ranging from a low annual CCF usage of 200 up to 1000 CCF annually.

Staff witness Ross calculated the annual normalized average residential gas usage for each geographic service area of Atmos.

NEMO (Kirksville, Palmyra, Hannibal, Canton, Bowling Green)	836 CCF
WEMO (Butler and Greeley)	778 CCF
SEMO (includes Neelyville)	652 CCF

The cost impact of Staff's proposals for customers in the NEMO district, compared to the "status quo" design, shows that Kirksville customers, who have an annual usage of 860 CCF, will pay $98.82 more in non-gas margin costs per year. That same customer in Palmyra will pay $74.26 more, while the Hannibal/Canton/Bowling Green customers will pay $57.09 *less* annual non-gas margin cost.

The cost impact of Staff's proposals, compared to the "status quo" rate design, shows that Butler customers using 800 CCF / year, will pay only $5.53 / year more. Note that if they use 860 CCF, Butler customers will pay $5.24 / year *less* than what they pay today. Greeley customers (using 800 CCF / year) will pay $82.20/year *less* than what they are paying now.

Again, the cost impact of Staff's fixed delivery charge proposal of $13.92 / month, compared to the existing rate design, shows that Neelyville customers using 700 CCF / year, will pay $96.92/year *less* in non-gas margin costs. Old SEMO district customers using 700 CCF / year will pay $4.66 / year *less* non-gas margin costs.

<u>Staff's proposed fixed delivery charge and district consolidation favorably impact LIHEAP customer bills</u>

The data analysis used to calculate LIHEAP customer impacts is contained in OPC Exhibit 206. Using data provided by Atmos, this exhibit demonstrates how low income residential customer actual gas usage (those customers on LIHEAP) compares to the total residential customer actual gas usage. Not surprisingly, LIHEAP residential customers tend to use measurably *more* gas than the combined customer average usage. For example, using Fiscal Year 2005 data, the percentage increase in gas usage of LIHEAP customers was calculated:

District	LIHEAP Average Customer Customer Usage (CCF)	All Customer Average Usage (CCF)	% above Average Usage
Kirksville	828	721	115%
P&U[3]	840	753	112%

[3] This old district is a combination of Palmyra in the northeast corner of the state, and Neelyville in the southeast corner of Missouri. (Tr. Vol 7, p. 219 lns 13-15).

Butler	864	705	122%
Greeley	804	753	107%
SEMO	624	599	104%

Even so, OPC witness Meisenheimer acknowledges, though by understatement, the above LIHEAP customer usage findings when she responded to the question:

"**Q**. Have you performed an analysis in this case that compares low-income household use to average use per customer?

A. Yes. For each district, I compared the average LIHEAP customer use to the average customer use and found them to be very similar in every district." Indeed, a further review of OPC Exhibit 206 above shows LIHEAP consumer usage actually ranges from 104% of average in SEMO to 122% of average in Butler. Therefore, according to OPC's own analysis, these findings show LIHEAP customers actually use *more* gas than the average amount of gas used by all customers. Under the "status quo" rate design, higher-than-average-use customers overpay their cost-of-service, and low-income customers, who demonstrably use more gas than the average customer, also overpay their cost of service. Under Staff's proposed fixed delivery charge, these low-income customers will see a lower gas bill.

With respect to LIHEAP customers and the impact of both rate designs, OPC witness Meisenheimer's testimony lacks credibility.

<u>More inequities of OPC's "status quo" rate design</u>

OPC's "status quo" rate design amplifies bill volatility and uncertainty by putting most of the non-gas bill in the winter months, when customers buy most of their gas for space-heating. Winter is when customers need help the most with their gas bills and can least suffer billing volatility and variability. Under Staff's fixed delivery charge, the non-gas costs are spread across the entire year, thereby reducing the peaks and valleys by a few dollars each month.

Under OPC's "status quo" rate design, the utility continues to have *no* incentive to promote conservation. This is because Atmos must recover a significant portion of its fixed costs through the volumetric charge tacked onto each unit of gas sales. Therefore, for Atmos to increase profit for its shareholders, the utility must sell *more* gas to its customers.

<u>Customer education, energy efficiency and weatherization programs</u>

Staff and Atmos agree there will be a need to educate customers on:

- the true nature of service provided by the LDC, which is delivery of the gas,
- the fact that all residential customers have the same equipment, and cause the same costs, regardless of the amount of gas used, and,
- how such a rate design will affect customers' bills.

With the Commission's adoption of Staff's proposed fixed delivery charge rate design, Atmos will increase its efforts at customer education through bill inserts, information on its website, and "question and answer" scripts for customer support agents. Furthermore, the Company will increase its efforts to educate customers on the benefits of budget billing using these same methods, as well as providing yearly reminders to customers on the requirements of budget billing.

In addition, Atmos will implement two energy assistance type programs geared to help consumers reduce their gas consumption First, Atmos will provide $78,000 for a low-income weatherization fund that would be applied to roughly 30 households, at an average level of $2,600 per household. Atmos will conduct a residential audit program at a reduced, company-subsidized rate of $25 per audit. These energy audits will be provided by Atmos as requested by their customers, with no upper limit on the number of customers that may participate.

As credibly testified by Staff witness Ross in support of programs promoting efficiency and conservation "Missouri does not have unlimited funds to finance these measures … it is going to take all of the stakeholders working together to provide the most efficient, effective use of the monetary and other resources that we do have…the LDCs have the most to offer due to their knowledge, their customer information database, and the relationships that they have with their customers and communities….As long as fixed costs are collected on a volumetric basis[under OPC's "status quo" rate design], compelling an LDC to actively promote conservation means that the Commission is compelling them to act contrary to their shareholders' interests…We have an opportunity in Missouri to align the interests of shareholders and customers".

Though Staff advocates the fixed delivery charge rate design as a means to align customer and shareholder interest to accomplish any meaningful efforts at conservation, the Company remains in a position where it must serve its customers well in order to recover its costs. Atmos witness Smith testified "While I agree that the Delivery Charge rate design [fixed delivery charge] addresses the concerns related to weather and declining customer usage…recovery of costs still depends on the sustained retention of customers."

OPC witness Meisenheimer offered no conservation or weatherization or education programs in her testimony, therefore the Commission finds OPC's testimony not credible.

<u>Staff proposes creating a Medium General Service tariff class by splitting the current Small General Service and Large General Service tariff classes.</u>

Staff witness Ross credibly testified that under Staff's proposal, the new Small General Service class applies to non-residential customers using 0 to 2,000 CCF per year. This breakpoint was chosen because customers using less than 2,000 CCF/year are served with the same meter/regulator and service line that serves the residential customer. Approximately 80% of Atmos' current Small General Service customers use less than 2,000 CCF/year, and they will become part of the proposed new Small General Service Class. Because the proposed new Small General Service Class non-residential customers are about the same size as customers in the Residential Class, and are served by the same size equipment, and show weather-sensitivity similar to residential customers, the customers in the new Small General Service class pay the same fixed delivery charge proposed by Staff for residential customers.

The proposed new Medium General Service class includes non-residential customers using from 2,000 to 75,000 CCF/year. Large General Service includes non-residential customers using from 75,000 to 200,000 CCF/year. Staff recommends these classes, the proposed new Medium General Service class and the Large General Service class, remain under the traditional rate design. The Staff supports the rates proposed by Atmos witness Patricia Childers.

IV. Miscellaneous Charges

Activation Charges for Connection, Reconnection, and Transfer

The Staff and Atmos agree that single statewide rates for connection and reconnection services should be implemented. The rates proposed by the Staff are based upon actual costs rounded to the nearest whole dollar amount.

OPC witness Meisenheimer testified that the rates established by Staff witness Ensrud are appropriate if the Commission determines that uniform statewide rates will be allowed.

Late Payment

The late payment fee proposed by Atmos provides uniformity and consistency throughout Atmos' service areas and should be adopted by the Commission. No party filed testimony in opposition to Atmos' proposed late payment fee calculated by multiplying 1.5% times the outstanding balance.

Not Sufficient Funds (NSF)

There are costs associated with processing insufficient funds checks, which should be recouped under the concept that cost causer should be cost payer. Atmos' insufficient funds charge should closely match the actual costs ($12.14) incurred for NSF checks. Accordingly, the Commission should approve the $15 rate currently charged by Atmos to 75% of its customers, rather than the $30 charge proposed by Atmos in its testimony. Public Counsel does not oppose Staff's rate proposal for NSF checks if the Commission finds that uniform statewide rates for this service are appropriate.

Seasonal Reconnection

Seasonal disconnection customers seek to avoid paying costs when not using gas for heat. To dissuade this practice and prevent cost-shifting to customers who remain connected all year long, the Staff proposes a two-component reconnection charge. First, the customer should pay the traditional reconnection charge that includes the cost of dispatch and an Atmos employee going to the customer's premise to re-establish service. Second, the seasonal-disconnect customer should "make up" all missed delivery charges (to recover missed sunk and fixed costs) that occurred when the customer took a summer break from Atmos' service. Staff proposes a 12-month limitation applicable to the second component, regardless of the reason for requesting disconnection.

V. Company PGA Tariffs Consolidation

The Staff recommends consolidating the current *seven* separate PGA rates by pipeline or source of supply. Staff proposes to go from seven to *four* PGA rate districts, as follows:

1. Butler and Greeley
2. Hannibal/Canton, Bowling Green and Palmyra
3. Kirksville
4. SEMO and Neelyville

This PGA consolidation will simplify and improve the PGA/ACA rate process by making it more efficient as a result of reducing the current number of filings made by Atmos. This is accomplished by the Staff identifying the PGA computation by pipeline or supply source. New, consolidated PGA districts have similar transportation rates and gas supply sources. Such consolidation is consistent with how AmerenUE currently files its PGA rate filings.

As Staff witness Tom Imhoff credibly testified at hearing, one company is currently doing all gas purchasing for each of the districts, and employing the same hedging program and strategy for Missouri.

Butler and Greeley are combined into one district because their primary source of gas comes from the Mid Continent Basin. As a result, the commodity costs are basically the same, even though the gas is being transported over two different pipelines.

For the SEMO/Neelyville consolidated PGA district, Mr. Imhoff noted that NGP&L pipeline currently feeds both Neelyville and a part of SEMO as well, even though SEMO has 4 different pipelines feeding into it.

For northeast Missouri (NEMO), there is no PGA consolidation.

At hearing, Mr. Imhoff also testified that Staff will have each individual (historic) district take care of their respective ACA balances to "zero them out". Atmos witness Childers confirmed this when she testified "The PGAs are very close with the exception of the ACA factor, which will run for 12 months to recover or refund any over – or under-recovery. And if you just look at the PGAs without that ACA factor, they are, in fact, very close and considerably lower than the PGAs that were in effect previously."

VI. <u>Company District Consolidation</u>

For the purpose of setting non-gas margin rates, Atmos' seven current districts will be combined into three geographically distinct service territories, as explained in detail in the Rate Design issue proposed findings above:

NEMO (Northeast Missouri): combines "legacy" Kirksville, Palmyra, Hannibal / Canton / Bowling Green districts;

SEMO (Southeastern Missouri): combines "legacy" Neelyville and SEMO districts; and,

WEMO (Western Missouri): combines "legacy" Greeley and Butler/Rich Hill districts.

Staff testified that the cost for Atmos to serve similarly situated customers in neighboring districts, such as the combining of three adjoining northeast Missouri districts into one service territory, is about the same. As described above, Atmos is an amalgamation of three predecessor companies formed over a period of years that include seven "legacy" operating districts. Atmos does not buy equipment, such as meters or mains, in quantities intended to serve just one "legacy" district. Atmos service employees serve *all* of Missouri, in each of its geographical service areas. Corporate overhead expenses associated with serving a residential customer are indifferent as to the "legacy" district that customer lives in. While there may be some difference in costs due to the vintage of the distribution equipment in various "legacy" districts at any given point in time, the Company's cost to provide service today to a geographical area do not change.

For the Company to make the attempt to collect and break out its costs to serve each of seven "legacy" districts is unnecessary - particularly in light of the reasonableness of combining these seven districts into their natural geographic service area. Moreover, the cost of meters, regulators and service lines is the *same* for all districts. In addition, when a customer calls Atmos customer service, the call is first answered by a Company representative located in one of three out-of-state call centers. If that call cannot be addressed, then it is routed to one of seven Missouri call centers which serve the surrounding area. These calls are routed without regard for the predecessor company that served the area 10 years ago. Related billing and customer service costs do not vary among the Company's current seven districts.

Atmos has adopted Staff's proposal to consolidate these seven "legacy" districts into three geographical service areas for the purpose of setting non-gas margin rates in this case.

VII. **Other Tariff Issues**

Cash-out Policy

The Cash-out provision allows transportation customers to resolve imbalances by cash payments instead of making up imbalances with gas volumes in kind. This provision replaces Atmos' existing policy of charging $15.00 per MCF when the balance is negative, or absorbing the gas when the imbalance is positive. Whether the imbalance is positive or negative, a transportation customer will pay a price determined by a formula that uses a published industry price. If the imbalance is greater than 5% of the monthly contract volume, the price will be inflated or deflated by an index referenced in the tariff. This standardized policy will replace Atmos' current practice of applying varying policies.

Public Counsel's only opposition noted in testimony is that large transportation customers would be allowed to create pools that would allow pool members to offset imbalances. To Staff's current knowledge, the only such customers on Atmos' system that could pool are the school districts, which are allowed to pool by statute.

Third Party Administered Pools for Cash-outs

The Cash-out provision allows transportation customers to resolve imbalances by cash payments instead of making up imbalances with gas volumes in kind. This proposal would replace Atmos' existing policy of charging $15.00 per MCF when the balance is negative, or absorbing the gas when the imbalance is positive. Whether the imbalance is positive or negative, a transportation customer will pay a price determined by a formula that uses a published industry price. If the imbalance is greater than 5% of the monthly contract volume, the price will be inflated or deflated by an index referenced in the tariff. This standardized policy will replace Atmos' current practice of applying varying policies. Public Counsel's only opposition noted in testimony is that large transportation customers would be allowed to create pools that would allow pool members to offset imbalances.

To Staff's knowledge, currently the only such customers on Atmos' system that could pool are the school districts, which are allowed to pool by statute. Section 393.310, RSMo. 2000.

Level of Lost and Unaccounted Gas (L&U)

The issue of determining the appropriate level of lost and unaccounted for gas has been settled among the parties and is addressed in the Partial Non-Unanimous Stipulation and Agreement on page 5.

The Stipulation, which by operation of law is unanimous, resolves the L & U issues among the parties in this case.

The resolution of the L & U issues is in the public interest.

The Commission's approval of the Stipulation will provide the authority for the parties to carry on the processes agreed to by the parties so that the parties may complete the terms of the agreement.

Economic Development Gas Service Rider (EDGS)

The Economic Development Gas Service Rider (EDGS) encourages industrial customers to use Atmos' natural gas service by providing limited discounts. After careful consideration and review, the Staff finds that this proposal is not detrimental to Atmos' customers.

Public Counsel's testimony that the EDGS would force residential and small customers to subsidize industry discounts is unsupported and contrary to Staff's analysis indicating that generally, a new industrial customer will generate revenues and defray costs beyond the initial discounted amounts.

Mains Extension Policy

The main extension policy will apply to a limited number of customers such as developers building new homes. Instead of receiving 150 feet of main free, the costs of the extension will be calculated using a computer model to estimate the cost of the main and the revenue that will be produced. This proposal will better match projected costs to projected revenues and avoid subsidization of new customers.

Public Counsel's opposition suggesting that new residential customers will be subject to a "feasibility review" is without support. Indeed, under the Staff and Atmos proposal, the initial customer will be compensated by the utility when additional customers come on to Atmos' system.

Proposed Conclusions of Law

Jurisdiction

The Missouri Public Service Commission has jurisdiction over the Atmos Energy Corporation's services, activities, and rates pursuant to Section 386.250 and Chapter 393 RSMo 2000.

Burden of Proof

Section 393.150.2 RSMo 2000 provides in part, "At any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the …gas corporation…and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible."

Commission's Authority

Pursuant to Section 393.130.1 RSMo 2000, the Commission has authority to prohibit the implementation of gas rates that are unjust or unreasonable.

Stipulation And Agreement

Atmos, the Staff, and OPC filed on November 29, 2006, their *Partial Non-Unanimous Stipulation and Agreement*, which sets forth issues settled among the parties.

Pursuant to 4 CSR 240-2.115(2)(C), because no parties objected within seven days to the Partial Non-Unanimous Stipulation and Agreement (Stipulation), the Commission may, by operation of law, treat this Stipulation as a unanimous stipulation and agreement.

The Stipulation addressed the following issues as resolved among the parties: Billing Determinants; Other Post-Retirement Benefits (OPEB) Contribution; Class Share of Revenue by District / Class Cost of Service; Customer Service Requirements and Reporting; PGA Minimum Filing Requirements; Depreciation Record Keeping and Reporting; and Gas Loss Reporting.

The Stipulation constitutes a just and reasonable settlement of all of the indicated issues.

Contested Issues

I. Revenue Requirement

Level of Expense
Rate of Return / Return on Equity
Level of Revenue Excess / Deficiency

The Commission concludes that rates designed to produce a zero net revenue requirement allowing for a stipulated gross annualized revenue of $16,507,737 are just and reasonable in that they meet Atmos' prudent operating expense and allow an opportunity to earn a reasonable return on the value of the private property dedicated to public service.

II. Depreciation and Reserve Amortization

The Depreciation issues are resolved among the parties in accordance with the Stipulation, which constitutes a just and reasonable settlement of the issues.

The Commission concludes that, as a whole, the annual depreciation accrual should be reduced by approximately $591,000 and that, by the Company entering a negative amortization of $591,000 to the depreciation reserve account, this provides an immediate benefit to Atmos' customers by lowering the Company's depreciation expense in that this amortization does not cause any harm to past, present, or, future ratepayers or shareholders, and is therefore just and reasonable.

III. Rate Design

<u>Rate Structure for Residential, Small, and Medium General Service</u>

<u>Rate Structure for the Small General Service (SGS) Rate (including the Medium General Service Rate if the Small General Service Class is Split)</u>

Based on all the evidence adduced, the Commission concludes that placing all non-gas costs into a fixed delivery charge, within the context of a zero revenue increase and the consolidation of seven legacy operating districts into three service areas (NEMO, WEMO, SEMO) for the purpose of setting the non-gas margin by area, provides for just and reasonable rates in that this action both removes inequities among ratepayers and provides Atmos an opportunity to recover its cost of service and to earn a reasonable return on the value of its private property dedicated to public service.

The Commission concludes that creating a Small General Service class that is based on the same operating parameters and cost of service of the Residential class provides just and reasonable rates for non-residential customers in that they will pay the same fixed delivery charge as residential customers pay within the same service area.

The Commission concludes that maintaining the traditional rate design for Medium General Service and Large General Service customers provides just and reasonable rates to the members of these service classes.

IV. Miscellaneous Charges

Based on the evidence adduced, the Commission concludes that uniform, statewide cost-based charges for Activation, Reconnection, Transfer, Late Payment, Not Sufficient Funds, and Seasonal Reconnection, are just and reasonable.

V. Company PGA Tariffs Consolidation

Based on the evidence adduced, the Commission concludes that the consolidation to four PGA districts provides for just and reasonable rates because the consolidation is based on the cost similarity of interstate pipelines that serve the districts and/or the cost similarity of the sources of gas supply to the districts.

VI. Company District Consolidation

Based on the evidence adduced, the Commission concludes that the consolidation of seven legacy districts into three geographic service areas (NEMO, WEMO, SEMO) for the purpose of setting non-gas margin rates (the fixed delivery charge) provides for just and reasonable rates because the costs to provide service to each service area do not change.

VII. Other Tariff Issues

Based on the evidence adduced, the Commission concludes that the Cash Out Policy, the Economic Development Gas Service Rider, and the Main Extension Policy provide for just and reasonable rates and that no credible evidence opposing these tariff issues has been provided by OPC.

The Commission concludes that Third Party Administered Pools for Cash-outs provides for just and reasonable rates and notices that school districts are permitted to pool under Section 393.310.

The Lost and Unaccounted Gas issue is resolved among the parties in accordance with the Stipulation, which constitutes a just and reasonable settlement of this issue.

WHEREFORE, the Staff submits its Proposed Findings of Fact and Conclusions of Law as directed by Commission Order and prays the Commission adopt its findings and conclusions on the above-stated issues.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 19th day of January 2007.

/s/ Robert S. Berlin