

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION

3
4 PREHEARING CONFERENCE

5 January 23, 2001
6 Jefferson City, Missouri
7 Volume 2
8

9 In the Matter of Atmos Energy)
Corporation's Purchased Gas) Case No. GR-2000-573
10 Adjustment to be Reviewed in)
its 1999-2000 Actual Cost)
11 Adjustment)

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15 BEFORE:

16 KEITH THORNBURG, Presiding,
17 REGULATORY LAW JUDGE.

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REPORTED BY:

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1 P R O C E E D I N G S
2 (Written Entries of Appearance filed.)
3 JUDGE THORNBURG: My name is Keith
4 Thornburg. We're here in the matter of Atmos Energy
5 Corporation's Purchased Gas Adjustment to be Reviewed
6 in its 1999-2000 Actual Cost Adjustment, Case
7 No. GR-2000-573, and I'll begin with appearances.
8 For Atmos Energy Corporation?
9 MR. FISCHER: Let the record reflect the
10 appearance of James M. Fischer, Fischer and Dority,
11 P.C. 101 Madison Street, Suite 400, Jefferson City,
12 Missouri, 65101, appearing on behalf of the
13 applicant -- or Atmos Energy Corporation.
14 JUDGE THORNBURG: And for the Commission
15 Staff.
16 MR. FREY: Dennis L. Frey, representing the
17 Staff of the Missouri Public Service Commission, Post
18 Office Box 360, Jefferson City, Missouri, 65101 --
19 excuse me, 65102.
20 JUDGE THORNBURG: And Office of the Public
21 Counsel?
22 MR. MICHEEL: Douglas E. Micheel appearing
23 on behalf of the Office of the Public Counsel and the
24 public, P.O. Box 7800, Jefferson City, Missouri,
25 65102-7800.

1 JUDGE THORNBURG: Do we have anyone
2 appearing for Associated Natural Gas Company?

3 MR. FISCHER: Your Honor, I think Atmos has
4 purchased that property and would be the entity that
5 would be representing that to the extent it's still an
6 issue as far as the particular ACA period in question.

7 JUDGE THORNBURG: Okay. Are there any other
8 persons here to enter an entry of appearance?

9 MR. FREY: No, your Honor.

10 JUDGE THORNBURG: Okay. Seeing none, we
11 will proceed.

12 The first thing I want to take us involves
13 Associated Natural Gas, and I'm going to note for the
14 record that yesterday, on the 22nd, Gary Duffy of the
15 law firm Brydon, Swearingen & England, filed a report
16 of ANG concerning compliance with the First Amended
17 Settlement Agreement and Release and Request for
18 Issuance of Orders, ANG being Associated Natural Gas,
19 and -- and in this filing Associated Natural Gas
20 represents that they've complied with the Settlement
21 Agreement that the parties filed on November 2nd,
22 2001, that the Commission accepted in an order issued
23 on December 7th, 2001.

24 One thing I want to know, does any party
25 have any issue with the representations Associated

1 Natural Gas made in this filing? And if you haven't
2 seen it, you can tell me that also.

3 Mr. Fischer?

4 MR. FISCHER: Your Honor, I have seen that
5 report, and it is my understanding that it correctly
6 portrays the situation. It's also my understanding
7 that Atmos is now about to make those refunds that --
8 since they have received the money from ANG, and they
9 are proceeding with that pursuant to the Stipulation
10 terms.

11 JUDGE THORNBURG: Okay. And for Staff?

12 MR. FREY: I haven't seen it, your Honor.
13 It's my understanding that members of the Staff
14 haven't either.

15 JUDGE THORNBURG: Okay. Public Counsel?

16 MR. MICHEEL: Yes. I reviewed it yesterday,
17 and it seems to be consistent with their obligations
18 under the Stipulation and Agreement.

19 JUDGE THORNBURG: Okay. Mr. Frey, would
20 Staff want an opportunity to review that and make a
21 filing following the prehearing conference?

22 MR. FREY: We can do that, your Honor.

23 JUDGE THORNBURG: Okay. One thing I'm
24 concerned with -- it's an administrative concern, but
25 the parties proposed in the settlement that this case

1 be closed and that we deal with the three-month
2 period -- I believe it's what we're dealing with
3 Atmos -- in a separate case, and, certainly, we can do
4 that, but I think the contents of the file are going
5 to be necessary in the new case. And so I'm going to
6 be dealing with the data center and trying to decide
7 how we might want to do that.

8 MR. FISCHER: Your Honor, might I suggest
9 that we delay closing the case until we have an
10 opportunity to visit and perhaps -- I think we're
11 going to be able to hopefully reach a settlement on
12 the remaining portion of the case. And it may be that
13 you can wait until the refunds are made in the ANG
14 matter, and then we can suggest a resolution of this
15 case, and wait until all of that happens, and then it
16 can be closed without having to go through the
17 administrative problem of changing case numbers and
18 all that.

19 MR. FREY: That sounds good to me, your
20 Honor.

21 JUDGE THORNBURG: Well, I'll let you know
22 that that also sounds good to me, but I think
23 Associated Natural Gas has some concern as long as
24 this case is hanging out there, and I don't know
25 financially and reporting-wise what burden it places

1 on them -- even though this seems to be resolved with
2 respect to Associated Natural Gas, what burdens it
3 creates for them and any of their ongoing business
4 dealings to have this case open.

5 MR. FISCHER: It may be very likely, Judge,
6 that we can file some kind of a recommendation on how
7 to handle the rest of the case by the time that Atmos
8 is actually able to process the refunds back, if
9 that's the last step in the other portion of the case
10 involving ANG, so it may not be a big deal. If you
11 want to wait at least until Atmos does the refunds to
12 close the case, it may be that we'll have the other
13 activities done by that time.

14 JUDGE THORNBURG: And by "other activities,"
15 you mean any issues with the actual cost adjustments,
16 the PGA filings?

17 MR. FISCHER: Correct. I don't know whether
18 you wanted to close out the ANG portion now that they
19 have a report on file, but I would just suggest that
20 if you would like to hear from Atmos that they have
21 actually done the refunds, that, I think, would
22 probably occur in early February, and it may be by
23 that time we will have been able to work something out
24 on the remainder of the ACA period issues.

25 JUDGE THORNBURG: What time period for the

1 refunds did you mention?

2 MR. FISCHER: I understand they are going to
3 do that the first of February or very near to that.

4 JUDGE THORNBURG: Okay. That's pretty
5 timely.

6 It probably would have been my preference to
7 have some type of release and dismissal of ANG rather
8 than opening another case, but that's -- that was in
9 the settlement and the order approving the settlement.

10 So it's possible if we let this -- let this
11 process just unfold over the next 30 to 45 days, we
12 may have a complete resolution of all of the issues
13 and close the case at that point, and then that might
14 be satisfactory to Associated Natural Gas. I'd hoped
15 they would have been here today, but -- but they
16 aren't. They did make this filing, though.

17 Okay. What I'll do on that, I'm going to
18 hold off closing the case and opening a new case.

19 There is a procedural schedule that's due to
20 be filed in this case with respect to the remaining
21 issues by February 1st unless there is a settlement
22 reached by then. And what I'll do is I'll just wait
23 until February 1st to see what the status of the case
24 is, and then I'll decide what to do with closing and
25 opening a case at that point.

1 MR. FREY: Your Honor, if I may, the company
2 and the Staff had a meeting yesterday which suggested
3 or gave us reason to believe that the issues in this
4 case will be settled as between us, and we're hopeful
5 that Public Counsel will have no objection as well.
6 We would like, if possible, to extend the filing of a
7 procedural schedule for one week to allow for time to
8 put the recommendation together.

9 MR. FISCHER: The company would support that
10 request.

11 JUDGE THORNBURG: Public Counsel?

12 MR. MICHEEL: Sure, we support that.

13 JUDGE THORNBURG: Okay. Does anybody have a
14 calendar with them?

15 MR. FISCHER: Yeah.

16 MR. FREY: That would be Friday,
17 February 8th.

18 JUDGE THORNBURG: Okay.

19 MR. FREY: And we would endeavor to file
20 sooner than that in any -- if that should be possible.

21 JUDGE THORNBURG: Okay. Mr. Fischer, do you
22 think the refunds are going out around the first of --

23 MR. FISCHER: That was my understanding.

24 JUDGE THORNBURG: Okay.

25 MR. FISCHER: I can confirm that, if you

1 like, but that was my understanding.

2 JUDGE THORNBURG: Yeah. I'm going to give
3 you guys plenty of time. Let's just make it
4 February 15th.

5 MR. FREY: Fine. Thank you, your Honor.

6 JUDGE THORNBURG: So what the record is
7 going to show is that I'll have either a procedural
8 schedule or a settlement document filed by
9 February 15th, 2002.

10 Another matter, the Staff had wanted some
11 additional reporting by Atmos on -- regarding some of
12 their -- I'm not quite sure how to describe it, but
13 I'll say business planning for gas supplies and that
14 sort of thing. And I think that had a later date.

15 MR. FISCHER: The 28th of February, I
16 believe.

17 JUDGE THORNBURG: And I believe that was
18 agreed to. Now, does that need to be addressed in the
19 case, or is that just information that Staff wants to
20 provide to them?

21 MR. FISCHER: I think in some other cases we
22 have filed those peak day studies just with the Staff
23 and not made formal filings in the case record, but
24 we're certainly willing to do whatever the Commission
25 would like.

1 MR. FREY: Your Honor, Staff is comfortable
2 with just having the information filed with --
3 submitted to the Staff and not filed in the case
4 records.

5 JUDGE THORNBURG: Okay. And then if any --
6 if Staff had any concerns with that planning and you
7 were unable to work that out with the company, then
8 the Staff would have to take some other proceeding
9 later, be it a complaint or some other form of
10 proceeding, to open a new case to address those
11 issues.

12 Is that acceptable?

13 MR. FREY: We understand, your Honor.

14 Thank you.

15 JUDGE THORNBURG: Okay. Okay. Does anyone
16 have anything further for me?

17 (No response.)

18 JUDGE THORNBURG: Okay. What we'll do,
19 then, is we have a new date we're looking at,
20 February 15th, for either a procedural schedule or a
21 settlement agreement to be filed.

22 MR. FREY: Your Honor, if I may?

23 JUDGE THORNBURG: Yes.

24 MR. FREY: The approach we were going to
25 take would be to file something like a revised

1 recommendation that the company would concur in and,
2 hopefully, OPC would have no objection to, so would
3 you -- if it goes in that direction, would you expect
4 that all of those documents be filed by the 15th?

5 JUDGE THORNBURG: Well, it works if you're
6 able to make the representation that everyone agrees,
7 but if you're not able to do that, then I'll need
8 responses.

9 MR. FREY: Okay.

10 JUDGE THORNBURG: And -- and if everyone
11 agrees, then you would need a separate settlement
12 agreement. Is that the idea?

13 MR. MICHEEL: I think what he's saying, your
14 Honor, is that they would file a recommendation, like
15 they do in the ACA, and then what I would do is file
16 something saying we have no objection to that
17 recommendation.

18 JUDGE THORNBURG: Uh-huh.

19 MR. FISCHER: And the company would also
20 file something similar to that.

21 MR. FREY: It would be a prompt filing,
22 presumably.

23 JUDGE THORNBURG: Okay. Well, could
24 everyone respond within seven days?

25 MR. MICHEEL: Oh, yeah.

1 JUDGE THORNBURG: Okay. Then we'll leave
2 that at the 15th and any responses within seven days.
3 And then, hopefully, I would still have an opportunity
4 to wind this up by the end of the month if we don't
5 end up having to have a procedural schedule filed.

6 If there are objections or disagreements
7 with the recommendation, then I would do an order
8 directing the filing of the procedural schedule.

9 MR. FREY: Okay. Thank you.

10 JUDGE THORNBURG: And at that point, I would
11 probably also be looking at something to address ANG's
12 concerns about having the case closed and a new one
13 opened.

14 Okay. Now, what we'll do, then, we'll leave
15 that with the Staff recommendation by the 15th,
16 responses within seven days. If you are able to also
17 file a pleading with the recommendations stating that
18 the Public Counsel and Atmos have reviewed it and
19 agree with it, then we don't need the responses. If I
20 don't see that representation, I'll wait the seven
21 days.

22 MR. FREY: We will do so, your Honor. And
23 in the event we have it earlier, we'll simply file the
24 document earlier than the 15th.

25 JUDGE THORNBURG: Okay. And if it is filed

1 earlier than the 15th, your seven days run from the
2 filing date.

3 MR. FREY: Filing date.

4 JUDGE THORNBURG: Okay.

5 MR. FREY: Thank you.

6 JUDGE THORNBURG: Okay. If there is nothing
7 further, we'll adjourn the prehearing conference.

8 If you-all need to visit for a few minutes,
9 this room is still available. Thank you.

10 WHEREUPON, the on-the-record portion of the
11 prehearing conference was concluded.

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