

In the Matter of the Application of )  
 Atmos Energy Corporation for a Variance and ) Case No. \_\_\_\_\_  
 Waiver from the Provisions of )  
 4 CSR 240-3.235. )

COMES NOW Atmos Energy Corporation (“Atmos” or “Company”), pursuant to 4 CSR 240-3.015 and 4 CSR 240-2.080(16), and in support of its Application for Variance and Waiver (“Application”) from the provisions of 4 CSR 240-3.235 of the Rules of the Missouri Public Service Commission (the “Commission”) to allow it to file its next rate case without the inclusion of a new depreciation study. In support of this Application and Motion, Atmos respectfully states as follows:

1. Atmos is a corporation duly organized, validly existing and in good standing in all respects under the laws of the State of Texas and Commonwealth of Virginia, with its principal office and place of business at 5430 LBJ Freeway, Dallas, Texas 75240. Atmos is authorized to conduct business in the State of Missouri and is engaged in the distribution and retail sale of natural gas in those areas of Missouri certificated to it by the Commission.

2. A certified copy of Atmos' certificate of authority to do business as a foreign corporation in Missouri was filed with the Commission in Case No. GR-2006-0387, which was Atmos' most recent general rate proceeding in Missouri. Said document is incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G) and made a part hereof for all purposes. Atmos is a "gas corporation" and a "public

utility” as those terms are defined in Section 386.020 of the Revised Statutes of Missouri and as such is subject to the jurisdiction of the Commission as provided by law.

3. Atmos has no pending actions against it involving customer service or rates having occurred within three (3) years from the date of this Application in certain of the jurisdictions in which it provides service, but none in Missouri. Atmos has no annual report or assessment fees that are overdue.

4. Communication in regard to this Application should be addressed to the undersigned counsel and:

Mark Martin  
Atmos Energy Corporation  
2401 New Hartford Road  
Owensboro, Kentucky 42303-1312  
(270) 685-8024  
[Mark.Martin@atmosenergy.com](mailto:Mark.Martin@atmosenergy.com)

5. 4 CSR 240-3.235 related to the filing requirements for gas utility rate increase requests contains a provision that requires the filing of a depreciation study, database and property unit catalog by the gas utility with a rate case if has not submitted a depreciation study within three (3) years of the filing date. 4 CSR 240-3.235(A) also states:

However, a gas utility need not submit a depreciation study, database or property unit catalog to the extent that the commission’s staff received these items from the utility during the three (3) years prior to the utility filing for a general rate increase or before five (5) years have elapsed since the last time the commission’s staff received a depreciation study, database and property unit catalog from the utility.

6. Atmos submitted its last depreciation study, database and property unit catalog to the Commission on April 6, 2006 as a part of its 2006 Rate Case, Case No. GR-2006-0387. Pursuant to 4 CSR 240-3.235(A), Atmos believes that it would be required to file a new depreciation study in any rate case filed after April 6, 2009, absent a waiver or variance from this rule.

7. At present, Atmos is anticipating filing a 2009 Rate Case by the end of 2009. However, Atmos does not intend to propose changes to its depreciation rates as a part of the 2009 Rate Case.

8. Pursuant to a Partial Stipulation between Atmos, Staff and Public Counsel filed on November 29, 2006 in Case No. GR-2006-0387, Atmos personnel have met with Staff to discuss the updating of the vintage dates of Atmos' continuing property system that is utilized in its various service areas in Missouri. Since its meeting with Staff, the Company has completed the vintaging of the current plant assets for all accounts except for those listed in the waiver approved in Case No. GE-2008-0342. In order to conduct a depreciation study based on an actuarial life analysis, asset retirements must be vintaged. The Company is currently working on vintaging the asset retirements. Until this process is completed, Atmos believes it would be reasonable and prudent to delay the filing of a new depreciation study, database and property unit catalog. The process will not be completed in time to be included in the 2009 Rate Case. Atmos respectfully requests that it be allowed to file its next 2009 rate case without the inclusion of a new depreciation study.

**MOTION FOR EXPEDITED TREATMENT**

9. Pursuant to 4 CSR 240-2.080(16), Atmos is requesting expedited treatment of this application.

10. Atmos requests approval of this application as soon as possible, but no later than July 31, 2009 to avoid the need to prepare and submit a depreciation study in conjunction with the 2009 Rate Case which is anticipated to be filed by the end of 2009. Given the substantial amount of time and resources needed to prepare a depreciation study, it would be necessary to begin the preparation of a new depreciation study immediately, if this application is not granted. This substantial effort will be avoided if the variance is granted. There will be no negative effect on Atmos's customers or the general public if the Commission acts by the date requested herein.

**WHEREFORE**, for the foregoing reasons, Atmos respectfully requests that the Commission grant it a variance or waiver from 4 CSR 240-3.235 to permit the Company to file its next rate case without the inclusion of a new depreciation study.

Respectfully submitted,

/s/ James M. Fischer

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James M. Fischer, MBN 27543  
email: [jfischerpc@aol.com](mailto:jfischerpc@aol.com)  
Larry W. Dority, MBN 25617  
email: [lawdority@sprintmail.com](mailto:lawdority@sprintmail.com)  
Fischer & Dority, P.C.  
101 Madison Street, Suite 400  
Jefferson City, MO 65101  
Telephone: (573) 636-6758  
Facsimile: (573) 636-0383

Douglas C. Walther, MBN 32266  
Associate General Counsel  
Atmos Energy Corporation  
P.O. Box 650205

Dallas, Texas 75265-0205  
Email: [douglas.walther@atmosenergy.com](mailto:douglas.walther@atmosenergy.com)  
Telephone: (972) 855-3102

Attorneys for Atmos Energy Corporation

**Certificate of Service**

I hereby certify that a copy of the above and foregoing document was sent by electronic mail, or hand delivered, on this 19th day of June, 2009 to:

General Counsel  
Missouri Public Service Commission  
Governor Office Building  
P.O. Box 360  
Jefferson City, MO 65102

Office of the Public Counsel  
Governor Office Building, 6<sup>th</sup> Floor  
P.O. Box 2230  
Jefferson City, MO 65102-7800

/s/ James M. Fischer

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James M. Fischer

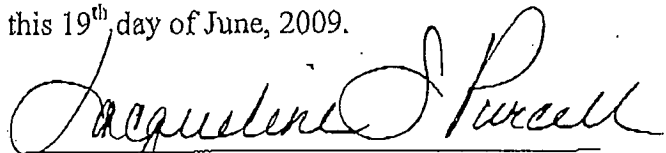
VERIFICATION

STATE OF KENTUCKY    )  
                                  )  
COUNTY OF DAVIESS    )       ss

I, Mark Martin, of lawful age, state that I am Vice-President-Rates and Regulatory Affairs for Atmos Energy Corporation; that I have read the above and foregoing Application; that the statements contained therein are true and correct to the best of my information, knowledge and belief, and that I am authorized to make this statement on behalf of Atmos Energy Corporation.

  
\_\_\_\_\_  
Mark Martin

Subscribed and sworn to before me this 19<sup>th</sup> day of June, 2009.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

November 15, 2011