

Exhibit No.:  
Issues: Special Contracts  
Witness: Kim Cox  
Sponsoring Party: MO PSC Staff  
Type of Exhibit: Surrebuttal Testimony  
Case No.: GR-2014-0152  
Date Testimony Prepared: August 15, 2014

**MISSOURI PUBLIC SERVICE COMMISSION**

**REGULATORY REVIEW DIVISION**

**TARIFF, SAFETY, ECONOMIC AND  
ENGINEERING ANALYSIS**

**SURREBUTTAL TESTIMONY**

**OF**

**KIM COX**

**LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP.  
d/b/a LIBERTY UTILITIES**

**CASE NO. GR-2014-0152**

*Jefferson City, Missouri  
August 2014*

**\*\*Denotes Highly Confidential Information\*\***

**\* Denotes Proprietary Information \***

**PR**

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF MISSOURI**

In the Matter of Liberty Utilities )  
(Midstates Natural Gas) Corp. d/b/a )  
Liberty Utilities' Tariff Revisions )  
Designed to Implement a General Rate )  
Increase for Natural Gas Service in the )  
Missouri Service Areas of the Company )

Case No.: GR-2014-0152

**AFFIDAVIT OF KIM COX**

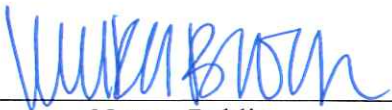
**STATE OF MISSOURI**     )  
  ) ss  
**COUNTY OF COLE**        )

Kim Cox, of lawful age, on her oath states: that she has participated in the preparation of the following Surrebuttal Testimony in question and answer form, consisting of 6 pages of Surrebuttal Testimony to be presented in the above case, that the answers in the following Surrebuttal Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true to the best of her knowledge and belief.

  
\_\_\_\_\_  
Kim Cox

Subscribed and sworn to before me this 14<sup>th</sup> day of August, 2014.

LAURA BLOCH Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: June 21, 2015 Commission Number: 11203914
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\_\_\_\_\_  
Notary Public

1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **KIM COX**

4 **LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP.**

5 **CASE NO. GR-2014-0152**

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1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **KIM COX**

4 **LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP.**

5 **CASE NO. GR-2014-0152**

6 Q. Are you the same Kim Cox who filed in Staff's Cost of Service report and  
7 Rebuttal Testimony?

8 A. Yes I am.

9 **EXECUTIVE SUMMARY**

10 Q. What is the purpose of your surrebuttal testimony?

11 A. The purpose of my surrebuttal testimony is to address the rebuttal testimony of  
12 Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities ("Company" or  
13 "Liberty") witness Christopher Krygier and Noranda Aluminum, Inc. ("Noranda") witness  
14 Maurice Brubaker. Specifically I will address the tariff rate class of Noranda and General  
15 Mills. I will also address Mr. Krygier's discussion of "revenue imputation" and the support  
16 for entering into a Special Contract with Noranda and General Mills. In regard to Mr.  
17 Brubaker's Rebuttal testimony I will address the Staff's cost justification.

18 **TARIFF RATE CLASS OF NORANDA AND GENERAL MILLS**

19 Q. In Mr. Krygier's rebuttal testimony he acknowledges that Noranda is an  
20 interruptible transportation customer. What is the interruptible transportation tariff rate for  
21 the Southeast Missouri rate division ("SEMO")?

22 A. The monthly delivery charge is \$500 and the volumetric rate is \$.14356 per  
23 100 cubic feet ("Ccf").

1 Q. What tariff rate did Staff use to calculate Noranda and General Mills revenues?

2 A. Staff used Liberty's tariff rate that was approved by the Missouri Public  
3 Service Commission ("Commission") in Case No. GR-2010-0192.

4 Q. What is the revenue that Liberty collected from Noranda and General Mills  
5 during the test year ending September 2013?

6 A. Liberty collected \*\* \_\_\_\_\_

7 \_\_\_\_\_ \*\* from Noranda and \*\* \_\_\_\_\_

8 \_\_\_\_\_ \*\* from General Mills.

9 Q. Is there a tariff or tariff class that authorizes the discounts that Liberty provided  
10 to Noranda and General Mills?

11 A. No.

12 **REVENUE "IMPUTATION"**

13 Q. Do you agree with Mr. Krygier's statement on page 2, line 13 of his rebuttal  
14 testimony, that the Staff proposes to "impute" \*\* \_\_\_\_\_ \*\* of additional revenues to the  
15 Company relating to the Noranda Special Contract?

16 A. I disagree with the implication of Mr. Krygier's testimony. In Staff's Cost of  
17 Service, Staff simply reflected the revenues that Liberty should have received based on its  
18 Commission-authorized tariff rate. The fact that Liberty may not have received this amount  
19 of revenue is due to Liberty's (or its predecessor's) decision to highly discount the rate.  
20 Liberty chose to provide Noranda a discounted rate that was not authorized by their tariff.  
21 Staff calculated Noranda and General Mills revenues from Liberty's approved tariff sheets  
22 that resulted from the Unanimous Stipulation and Agreement and the Order Approving  
23 Stipulation and Agreement in Case No. GR-2010-0192 that is attached as Schedule KC-1.

1 Staff does not believe that Liberty's other customers should now be forced to bear the burden  
2 of making up for Liberty's voluntary decision to discount its rates for certain customers.

3 Q. What is the result of Liberty providing Noranda and General Mills a  
4 discounted rate?

5 A. By Liberty choosing to provide a discounted rate they have put themselves in a  
6 position that may harm them and their customers.

7 **SUPPORT FOR ENTERING INTO A SPECIAL CONTRACT**

8 Q. Mr. Krygier states that Liberty does not agree with Staff's assessment that  
9 \*\* \_\_\_\_\_ \*\* He  
10 goes on to say that the Company believes that there is substantial support for the discounted  
11 rate. What evidence or support has the Company provided?

12 A. None.

13 Q. Has Staff asked the Company for evidence or support?

14 A. Yes. Data Request 267:

15 \*\* \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_ \*\*

18 Q. What was the response?

19 A. DR 267 response is attached as Highly Confidential Schedule KC-2. Part of  
20 the response directed Staff to the Case No. GR-2006-0387, testimony of George Swogger,  
21 Manager –Energy Procurement for Noranda.

22 Q. Has Staff reviewed Mr. Swogger's direct testimony in that case?

**NP**

1           A.     Yes. At page 24, line 6 Mr. Swogger was asked “as a businessman, does a  
2 bypass make sense?” His response:

3           “Yes and No. No because it should be cheaper to use a system that has been around  
4 for many years than to construct a new bypass. The mere existence of the possibility of a  
5 bypass in my thinking is evidence of how severely out of line the rates were.

6           No also because it would seem a shame to construct a new more or less duplicate  
7 facility when the existing facilities had the capability to provide adequate service if only the  
8 rates, terms, and conditions could be set at a reasonable level.

9           But on the other hand, bypass makes perfect sense as a way to obtain relief from rates,  
10 terms and conditions that, taken together, are unpalatable. Also, a bypass would eliminate the  
11 continuing uncertainty of rate cases before this Commission.”<sup>1</sup>

12          Q.     Has the Commission set just and reasonable rates, terms, and conditions for  
13 interruptible transportation service?

14          A.     Yes. The Staff’s Cost of Service reflects the Commission-approved rates for  
15 interruptible service which are, by definition once they are approved, “just and reasonable”  
16 rates.

17          Q.     Did Liberty, Noranda or General Mills provide evidence in this case that a  
18 “special rate or discount” was needed to avoid bypass?

19          A.     No. Liberty, Noranda nor General Mills provided evidence that a discount  
20 from the approved tariff rate was needed to avoid bypass.

21          Q.     On page 3, beginning on line 15 of Mr. Krygier’s rebuttal testimony, when  
22 discussing Noranda, he states “The Company believes that this customer might leave the  
23 Company’s system or substantially reduce its throughput if the full Large Transportation rate

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<sup>1</sup> GR-2006-0387 Prepared Direct Testimony of George Swogger

1 were charged by the Company.” On page 9, beginning on line 19, when discussing General  
2 Mills, he states “The Company continues to believe that it is necessary to offer this customer a  
3 reduced rate in an effort to prevent bypass and retain their business.” Does Staff agree?

4 A. It is unknown what Noranda or General Mills would do since there was no  
5 study or analysis performed prior to entering into their respective contracts, or at least no  
6 evidence of such a study or analysis provided by the Company. As stated by the Company,  
7 “the company believes that this customer *might* leave.”

### 8 **STAFF’S COST JUSTIFICATION**

9 Q. Mr. Brubaker states that Staff did not provide any evidence that the Noranda  
10 discounted rate was not cost-justified. What is Staff’s response?

11 A. It is Staff’s position that the tariff is not deficient and the rates approved by the  
12 Commission are just and reasonable. It is not Staff’s burden to prove that the rate Liberty  
13 chose to charge Noranda was not cost-justified. It is Liberty’s burden to prove that it was  
14 justified and as stated earlier, this was not done.

### 15 **RECOMMENDATION**

16 Q. What is Staff’s conclusion?

17 A. Staff’s conclusion is that 1.) Liberty was not authorized to offer a discount to  
18 Noranda or General Mills; 2.) Liberty provided no evidence that a discount rate was  
19 necessary to avoid bypass or that Noranda or General Mills were going to leave the system;  
20 3.) Liberty provided no evidence that the rate charged was appropriate; and 4.) It is not  
21 Staff’s burden to prove that a rate charged by Liberty is not cost-justified when it is not  
22 authorized by Commission.

23 Q. What is Staff’s recommendation for this case?



Surrebuttal Testimony of  
Kim Cox

1           A.     Staff recommends that the Commission-approved tariff rates be used to  
2 calculate the revenues for Noranda and General Mills.

3           Q.     Does this conclude your surrebuttal testimony?

4           A.     Yes, it does.

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Atmos Energy Corporation's Tariff )  
Revision Designed to Implement a General Rate )  
Increase for Natural Gas Service in the Missouri ) **File No. GR-2010-0192, et al.**  
Service Area of the Company. )

**UNANIMOUS STIPULATION AND AGREEMENT**

COME NOW Atmos Energy Corporation ("Atmos" or the "Company"), the Staff of the Missouri Public Service Commission ("Staff"), the Office of the Public Counsel ("OPC"), the Missouri Department of Natural Resources ("MDNR") and Noranda Aluminum, Inc. ("Noranda") and respectfully state to the Missouri Public Service Commission (Commission) that after extensive negotiations, the undersigned signatories ("Signatories," "Signatory," or "Parties"), have reached the following Unanimous Stipulation and Agreement<sup>1</sup> (hereinafter referred to as the "Stipulation"). This Stipulation is intended to settle all issues among the Parties for purposes of File No. GR-2010-0192 and consolidated File No. GR-2006-0387.<sup>2</sup> The Signatories hereby submit the following Stipulation to the Commission for approval.

1. **Revenue Requirement.** The undersigned Signatories agree and recommend that the Commission authorize Atmos to increase its annual non-gas, Missouri jurisdictional revenues by Five Million, Six Hundred Fifty Thousand Dollars (\$5,650,000), which includes approximately One Million Dollars (\$1,000,000) in Infrastructure System Replacement Surcharge ("ISRS") revenues that have previously been authorized by the

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<sup>1</sup> On June 1, 2010, a "Withdrawal of IBEW Local 1439" was filed in Case No. GR-2010-0192 by International Brotherhood of Electrical Workers Local 1439, AFL-CIO, withdrawing from participation in this proceeding.

<sup>2</sup> On June 23, 2009, the Missouri Court of Appeals for the Western District reversed the Commission's Report and Order in File No. GR-2006-0387, and remanded the case to the circuit court with instructions to remand to the Commission. *State ex rel. Public Counsel v. Missouri Public Service Com'n*, 289 S.W.3d 240 (Mo. App. W.D. 2009). On February 3, 2010, the Commission issued an interlocutory order re-opening the evidentiary record in File Number GR-2006-0387 and consolidating that file with File Number GR-2010-0192. Hannibal Regional Hospital, a party to the original File No. GR-2006-0387, has not participated in that proceeding since the matter was remanded to the Commission, nor is it an intervenor in File No. GR-2010-0192.

Commission and are currently being collected through a surcharge. Revenue amounts referenced in this paragraph are exclusive of any applicable license, occupation, franchise, gross receipts taxes or other similar tax or taxes.

2. **Class Cost of Service/Rate Design.** The Parties agree that the revenue requirement established in this case shall be allocated to each district and rate class in accordance with the amounts set forth on **Appendix A**, attached hereto and incorporated by reference herein.

3. **Tariffs.** The Parties request that the Commission order Atmos to file revised tariff sheets containing rate schedules for natural gas service designed to produce overall Missouri jurisdictional gross annual non-gas revenues, exclusive of any applicable license, occupation, franchise, gross receipts taxes, or similar fees or taxes, in the amount of \$21,208,496 annually, an increase of \$5,650,000. The Parties further request that the Commission order Atmos to file tariff sheets to be effective for service rendered on and after September 1, 2010 in conformity with the specimen tariff sheets attached hereto as **Appendix B** and incorporated by reference herein.

The tariffs attached in **Appendix B** reflect the adoption of a two-part rate design. Under this rate design, the Company maintains its existing three districts: Northeast (NEMO), Southeast (SEMO), and West (WEMO). A majority of the rate increase resulting from settlement of this case will be recovered through volumetric rates. However, approximately 75% of the Company's total revenue requirement charged to the Residential and Small Firm General Service (SGS) classes will be recovered through delivery charges. For the Medium General Service (MGS), Large General Service (LGS), Interruptible Large Volume Gas (ILVG), and Transportation service classes, the revenue increases are allocated on an across-the-board equal percentage basis to all rate elements.

4. **Rate District Consolidation.** The Parties agree that the Company should maintain the three (3) rate districts (*i.e.*, Northeast (NEMO), Southeast (SEMO), and West (WEMO)) that were approved in the Company's 2006 rate case, Case No. GR-2006-0387.

5. **Company's Customer Reclassification Proposal.** The Signatories agree that the Company's proposal for reclassifying commercial customers into the Small General Service (SGS), Medium General Service (MGS) and Large General Service (LGS) classes should be adopted by grouping all Type A and Type B meters into the SGS and all non-Type A and non-Type B meters in the MGS and LGS classes. Any SGS, MGS or LGS customer may request a review by the Company of the customer's usage to determine whether the customer would qualify for a different class through a meter replacement. Any customer who qualifies shall be properly classified in the company's billing system, and that customer shall not be charged for any future meter replacement.

6. **Billing Determinants.** The Signatories agree that the Staff's billing determinants, as adjusted for corrections to account for the SGS, MGS and LGS migration proposal, shall be used in this case.

7. **Special Contracts.** The Signatories agree that revenues associated with special contracts shall not be imputed in this case. The Signatories agree that Atmos shall offer to extend the special contracts of Noranda and General Mills to expire on the effective date of rates approved in Atmos's next general rate case. The rates for such extended period shall be those in effect at the end of the respective contract's original term. This paragraph shall not be construed to limit the ability of Atmos and Special Contract customers: i) to accept alternative mutually agreeable contract provisions, or ii) to enter into alternative mutually agreeable contracts for service.

8. **Seasonal Reconnection Charges.** The Signatories agree that, for the Residential and Small General Service classes, seasonal reconnection charges shall be no more than two months of delivery charges.

9. **Withdrawal of Proposal to Recover Bad Debt Portion of Bill in PGA.** The Company shall withdraw its proposal to recover any portion of bad debts through the Purchased Gas Adjustment (PGA) mechanism.

10. **Withdrawal of Proposal to Eliminate *De Minimis* ACA Balances.** The Company shall withdraw its proposal to adjust its PGA tariff for the ability to halt or zero out an Actual Cost Adjustment (“ACA”) factor once a de minimis balance is reached.

11. **ISRS Calculations.** As required by Commission rules, the Company’s current ISRS shall be reset to zero upon the effective date of new rates in this case. The Signatories further agree that, for any ISRS filings implemented between the date new rates are established in this proceeding and the effective date of new rates established in the Company's next general rate case proceeding, the Return On Equity (ROE) to be used in the ISRS calculation shall be 10.0%, and the capital structure and debt costs shall be the capital structure and debt costs as filed by Staff in this case. The ROE and capital structure specified herein for use in future ISRS filings does not reflect the level of ROE included in the overall revenue requirement agreement in this Stipulation. Plant in service additions for inclusion in a future ISRS shall be limited to qualifying additions subsequent to February 28, 2010.

12. **Energy Conservation and Efficiency Program.** The Signatories agree that the Commission should approve the following requirements for Atmos' Energy Conservation and Efficiency Program (“Program”):

(a) Atmos will no longer be required to contribute annually, one percent (1%) of its annual gross non-gas revenues derived from its Missouri customers to be used for an energy

conservation and efficiency program. Future funding for the Energy Conservation and Efficiency Program shall include \$150,000 per year in base rates (\$105,000 of which shall be annually dedicated to the Residential Low Income Weatherization Assistance Program), with the utilization of a regulatory asset account mechanism for additional monies required to fund said Program. Atmos shall accumulate any additional Program costs (above the \$150,000) in regulatory asset accounts as the costs are incurred, for potential recovery in a future rate case. The regulatory asset account shall accrue interest at the Company's short-term debt rate through the Company's next rate case. Program costs in the regulatory asset account that have been prudently incurred will be included in rate base in the Company's next general rate case and amortized over six (6) years. As set forth below, this regulatory asset account shall begin with a negative balance that reflects the amount of unspent Program funds provided by Atmos shareholders. For purposes of this calculation, unspent funds shall not include funds that have already been provided by Atmos to EI ERA, even if EI ERA has not yet disbursed the funds to weatherization service providers. Atmos shall book its future energy conservation and efficiency expenditures by vintage to reflect the program year in which costs were incurred and keep any expenditures which are directly attributable to different tariff classes in separate regulatory asset sub-accounts. Any future unspent Program funds provided by ratepayers, except for those future fund amounts paid to EI ERA, will be credited to the regulatory asset account at the end of each Program year.

(b) The Program year will begin with the effective date of the tariffs approved in this case. The initial total funding level for the next year of the Program shall be \$210,000.00. Atmos will take all reasonable actions toward the target of increasing annual expenditures for cost-effective conservation and energy efficiency programs to one-half percent (0.5%) of annual operating revenues, including gas costs, within three years. After the effective date of the new

tariffs, Atmos will work with the Energy Efficiency Advisory Group (“EE Advisory Group”) to take reasonable actions toward a target of increasing the funding level for cost-effective conservation and energy efficiency programs for the plan year ending in 2013 to 0.5% of the annual average of the Company’s Missouri Jurisdictional Total Revenues for the calendar years ending 2008, 2009 and 2010, as such Total Revenues are set forth in the Company’s Gas Annual Report filings with the Commission. Such target level shall remain in effect until the effective date of a Commission order mandating otherwise in a subsequent rate case or until the parties unanimously agree to request and the Commission approves a different target level amount during that time period. Thereafter, Atmos will take all reasonable actions to develop and implement cost-effective energy efficiency programs that will move toward a goal of increasing annual expenditures above the one-half percent (0.5%) target level of annual operating revenues, including gas costs.

(c) The Energy Efficiency Collaborative will be renamed the EE Advisory Group. The EE Advisory Group will operate as an advisory, rather than consensus, group and will continue to provide input to Atmos on the design, implementation and evaluation (including choice of consultants and scope of work) of the Program. The EE Advisory Group shall have meetings or conference calls at least two (2) times per year. In conjunction with these meetings/conference calls, Atmos shall provide updates on: (1) the status of program design and implementation including the amount of expenditures for each program and the level of customer participation, (2) the status of program evaluations including consultants chosen, evaluation budgets, evaluation expenditures, and copies of any interim and final evaluations, and (3) the status of new program selection and design efforts including efforts being made to reach the target of one-half percent (0.5%) of total gas and non-gas annual revenues. In addition, if the EE Advisory Group is unable to reach agreement on an issue related to the Program, except for any matter related to the

recommended target level referenced herein, any member may petition the Commission for further direction.

(d) Current Program Components:

(i) Residential Low Income Weatherization Assistance Program.

In accordance with the Commission's Report and Order issued in File No. GR-2006-0387, Atmos' approved tariff sheets, and the Cooperation and Funding Agreement (including the First Amendment thereto) dated December 4, 2007, Atmos has contributed annual payments in the amount designated by the Collaborative to the State Environmental Improvement and Energy Resource Authority ("EIERA"), the most recent payment being made in September 2009. Pursuant to the Cooperation and Funding Agreement, all such monies are deposited by EIERA into the Atmos Energy Gas Corporation Natural Gas Weatherization Fund and managed by EIERA. Any existing balance shall be retained in the Fund. The Cooperation and Funding Agreement will be reviewed regarding any necessary changes required to reflect revisions to the Program.

(ii) High Efficiency Natural Gas Water Heating and Space Heating Rebates / Customer Education

Any unspent Program funds allocated to the above Program components shall be transferred as a liability to Atmos' regulatory asset account. As of June 30, 2010, the current level of unspent funds for these Program components total \$128,187 (\$114,650 for Rebates and \$13,537 for Education). These amounts will need to be updated to reflect unspent balances as of the effective date of new rates resulting from this case.

(e) Atmos agrees to provide a detailed proposal to the EE Advisory Group for a program to address building shell measures (e.g., insulation and air infiltration measures) for the residential class within three months of the effective date of new rates in this case. Atmos agrees to take all reasonable steps necessary to have such a program approved by the



Commission within six months of the effective date of new rates in this case. Atmos also agrees to continue to explore opportunities to cooperate with other utilities in its service territory (Commission-regulated utilities will be the first priority) in an effort to develop programs for the joint delivery of building shell energy efficiency measures to residential customers.

(f) Atmos shall file annual reports with the Commission reporting on the status of implementing energy conservation and efficiency programs. The first report shall be filed within forty-five (45) days of the end of the first program year after the effective date of new rates in this case. Annual reports shall include: (1) a narrative description of the status of each program; (2) information (by program) on actual program expenditures and estimated impacts (Ccfs, to the extent reasonably available); (3) a comparison (by program) of budgeted expenditures and impacts (Ccfs, to the extent reasonably available) to actual expenditures and impacts (Ccfs, to the extent reasonably available); and (4) an update on the progress made in the prior year, and progress anticipated in the next year, towards the target of increasing annual expenditures for cost-effective energy conservation and efficiency programs to one-half percent (0.5%) of total gas and non-gas annual revenues at the level of annualized revenues determined in this rate case, within three (3) years.

13. **Bill Check-Off Program.** The Company shall maintain a voluntary, customer contributed, bill check-off, low income program. Beginning with the effective date of new rates in this case, this program shall include a shareholder match of customer contributions.

14. **Contingent Waiver of Rights.** This Stipulation is being entered into solely for the purpose of settling the issues in File No. GR-2010-0192 and consolidated File No. GR-2006-0387. Unless otherwise explicitly provided herein, none of the Signatories to this Stipulation shall be deemed to have approved or acquiesced in any ratemaking or procedural principle,

including, without limitation, any method of cost determination or cost allocation or revenue-related methodology. Except as explicitly provided herein, none of the Signatories shall be prejudiced or bound in any manner by the terms of this Stipulation in this or any other proceeding, regardless of whether this Stipulation is approved.

15. This Stipulation has resulted from extensive negotiations among the Signatories, and the terms hereof are interdependent. If the Commission does not approve this Stipulation unconditionally and without modification, then this Stipulation shall be void and no Signatory shall be bound by any of the agreements or provisions hereof.

16. The Signatories agree that all of the prefiled testimony submitted in this case, as well as affidavits prepared and filed by any of the Parties in lieu of Memoranda in Support, that relates to any issue resolved by this Stipulation shall be received into evidence without the necessity of the respective witnesses taking the stand.

17. If the Commission does not approve this Stipulation without condition or modification, and notwithstanding the provision herein that it shall become void; neither this Stipulation nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with §536.080 RSMo. (2000)<sup>3</sup> or Article V, Section 18 of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this Stipulation had not been presented for approval, and any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this Stipulation shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any purpose

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<sup>3</sup> All statutory references are to the Revised Statutes of Missouri 2000 (as currently supplemented), unless otherwise noted.

whatsoever.

18. In the event the Commission accepts the specific terms of this Stipulation without condition or modification, the Parties waive their respective rights to present oral argument and written briefs pursuant to §536.080.1, their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2, their respective rights to seek rehearing pursuant to §536.500, and their respective rights to judicial review pursuant to §386.510. This waiver applies only to a Commission order approving this Stipulation without condition or modification issued in this proceeding and only to the issues that are resolved hereby. It does not apply to any matters raised in any prior or subsequent Commission proceeding nor any matters not explicitly addressed by this Stipulation.

19. The Staff also shall have the right to provide, at any agenda meeting at which this Stipulation is noticed to be considered by the Commission, whatever oral explanation the Commission requests; provided, that the Staff shall, to the extent reasonably practicable, provide the other Signatories with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to Commission Rule 4 CSR 240-2.135.

20. If the Commission has questions for the Parties, the Parties shall make available, at any on-the-record hearing or presentation, their representatives and attorneys on the issues resolved by this Stipulation, so long as all Parties have adequate notice of that hearing or presentation. The Parties agree to cooperate in presenting this Stipulation to the Commission for approval, and will take no action, direct or indirect, in opposition to the request for approval of this Stipulation.

**WHEREFORE**, the undersigned Signatories respectfully request that the Commission issue its Order approving all of the specific terms and conditions of this Stipulation.

Respectfully submitted,

**/s/ Robert S. Berlin**

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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 11<sup>th</sup> day of August, 2010.

**/s/ Larry W. Dority**

---

Larry W. Dority

APPENDIX A  
DISTRICT AND CLASS REVENUE INCREASES

**Atmos Energy Corporation**  
**Missouri Jurisdiction Rate Revenues**  
**Summary of Revenue at Settled Rates**  
**Twelve Months Ended June 30, 2009 Updated Through February 28, 2010**

Line No.	Description	Percent of Revenue at Existing Rates	Allocation of Increase \$ 5,650,000	Total Missouri Normalized Settled Margin Revenue	Settled Revenue from Customer Charge (75%)	Settled Revenue from Volumetric Charge	Settled Base Customer Rate	Settled Base Volumetric Rate Per Mcf
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	<b><u>NEMO - DIV 70 &amp; 97</u></b>	49.18%						
2	Residential Firm Service	68.67%	\$ 1,908,080	\$ 5,994,301	\$ 4,495,726	\$ 1,498,575	\$ 22.68	\$ 1.15460
3	Small Firm General Service	8.53%	237,114	744,903	558,677	186,226	22.68	0.57780
4	Medium Firm General Service	14.62%	406,378	1,276,651	394,000	882,651	100.00	1.86150
	Large Firm General Service and Interruptible							
5	Large Volume Gas Service	8.17%	227,140	713,568	76,000	637,568	500.00	1.17130
6		\$ 2,778,712						
7								
8	Total Sales Revenue		\$ 2,778,712	\$ 8,729,424	\$ 5,524,403	\$ 3,205,021		
9								
10	Total Other Revenues		\$ -	\$ 332,773	\$ -	\$ -		
11								
12	<b>TOTAL - NEMO</b>		\$ 2,778,712	\$ 9,062,197	\$ 5,524,403	\$ 3,205,021		
13								
14	<b><u>SEMO - DIVISION 72</u></b>	42.98%						
15	Residential Firm Service	63.31%	\$ 1,537,442	\$ 6,389,007	\$ 4,791,756	\$ 1,597,251	\$ 13.75	\$ 0.87350
16	Small Firm General Service	7.40%	179,778	747,088	560,316	186,772	13.75	0.45360
17	Medium Firm General Service	15.50%	376,408	1,564,204	644,500	919,704	100.00	1.66070
	Large Firm General Service and Interruptible							
18	Large Volume Gas Service	13.79%	334,764	1,391,147	37,000	1,354,147	500.00	1.43560
19		\$ 2,428,392						
20								
21	Total Sales Revenue		\$ 2,428,392	\$ 10,091,446	\$ 6,033,572	\$ 4,057,874		
22								
23	Total Other Revenues		\$ -	\$ 432,866	\$ -	\$ -		
24								
25	<b>TOTAL - SEMO</b>		\$ 2,428,392	\$ 10,524,312	\$ 6,033,572	\$ 4,057,874		
26								
27	<b><u>WEMO-DIV 29 &amp; 71</u></b>	7.84%						
28	Residential Firm Service	68.65%	\$ 304,055	\$ 1,095,847	\$ 821,885	\$ 273,962	\$ 20.17	\$ 1.06820
29	Small Firm General Service	10.16%	44,999	162,181	121,636	40,545	20.17	0.59440
30	Medium Firm General Service	9.98%	44,208	159,332	55,000	104,332	100.00	2.21900
31	Large Firm General Service and Interruptible	11.21%	49,634	178,886	23,000	155,886	500.00	1.51150
32		\$ 442,896						
33								
34	Total Sales Revenue		\$ 442,896	\$ 1,596,246	\$ 1,021,521	\$ 574,725		
35								
36	Total Other Revenues		\$ -	\$ 25,741	\$ -	\$ -		
37								
38	<b>TOTAL - WEMO</b>		\$ 442,896	\$ 1,621,987	\$ 1,021,521	\$ 574,725		
39								
40	<b><u>Total Missouri</u></b>							
41	Total Sales Revenue	100.00%	\$ 5,650,000	\$ 20,417,116	\$ 12,579,496	\$ 7,837,620		
42	Total Other Revenues		\$ -	\$ 791,380	\$ -	\$ -		
43								
44	<b>TOTAL MISSOURI</b>		\$ 5,650,000	\$ 21,208,496	\$ 12,579,496	\$ 7,837,620		

APPENDIX B  
PROPOSED TARIFFS



**Appendix B  
Index**

<b>New Sheets</b>		<b>Former Sheets</b>		<b>Section/Description of NEW SHEETS</b>
P.S.C. MO. No. 2, 3rd Revised Sheet No.	19 Cancelling	2nd Revised Sheet No.	19	Schedule of Rates
P.S.C. MO. No. 2, 1st Revised Sheet No.	21 Cancelling	Original Sheet No.	21	Utility Related Charges
P.S.C. MO. No. 2, 2nd Revised Sheet No.	22 Cancelling	1st Revised Sheet No.	22	Residential Firm Service
P.S.C. MO. No. 2, 1st Revised Sheet No.	23 Cancelling	Original Sheet No.	23	Residential Firm Service (cont'd)
P.S.C. MO. No. 2, 2nd Revised Sheet No.	24 Cancelling	1st Revised Sheet No.	24	Small Firm General Service
P.S.C. MO. No. 2, 1st Revised Sheet No.	25 Cancelling	Original Sheet No.	25	Small Firm General Service (cont'd)
P.S.C. MO. No. 2, 2nd Revised Sheet No.	26 Cancelling	1st Revised Sheet No.	26	Medium Firm General Service
P.S.C. MO. No. 2, 2nd Revised Sheet No.	28 Cancelling	1st Revised Sheet No.	28	Large Firm General Service
P.S.C. MO. No. 2, 1st Revised Sheet No.	30 Cancelling	Original Sheet No.	30	Interruptible Large Volume Gas Service
P.S.C. MO. No. 2, 1st Revised Sheet No.	112.1 Cancelling	Original Sheet No.	112.1	Promotional Practices (cont'd)
P.S.C. MO. No. 2, 2nd Revised Sheet No.	115 Cancelling	1st Revised Sheet No.	115	Energy Conservation And Efficiency Program
P.S.C. MO. No. 2, 2nd Revised Sheet No.	116 Cancelling	1st Revised Sheet No.	116	Energy Conservation And Efficiency Program
P.S.C. MO. No. 2, 2nd Revised Sheet No.	117 Cancelling	1st Revised Sheet No.	117	Rebate Programs
P.S.C. MO. No. 2, 2nd Revised Sheet No.	118 Cancelling	1st Revised Sheet No.	118	Rebate Programs
P.S.C. MO. No. 2, 1st Revised Sheet No.	119 Cancelling	Original Sheet No.	119	Rebate Programs

Atmos Energy Corporation

FOR – All Areas

Name of Issuing Corporation

Community, Town or City

**SCHEDULE OF RATES**

INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE ("ISRS")

Description: The ISRS is designed to recover the costs associated with the Company's eligible infrastructure replacements in accordance with the provisions of Sections 393.1009 to 393.1015, RSMo.

Applicability: In addition to the other charges provided for in the Company's tariff, a monthly ISRS shall be added to each customer's bill for service rendered on and after the effective date of the ISRS.

Schedule of Surcharges: The amount of the ISRS by rate schedule is as follows:

<u>Type of Service</u>	<u>Per Bill Per Month</u>		
	<u>West</u>	<u>Southeast</u>	<u>Northeast</u>
Residential Firm Service .....	0.00	0.00	0.00
Small Firm General Service .....	0.00	0.00	0.00
Medium Firm General Service .....	0.00	0.00	0.00
Large Firm General Service .....	0.00	0.00	0.00
Interruptible Large Volume Service .....	0.00	0.00	0.00

DATE OF ISSUE:

DATE EFFECTIVE:

month day year

month day year

ISSUED BY: Mark Martin  
name of officer

Vice President-Rates and Regulatory Affairs  
title

Owensboro, KY  
address

Cancelling P.S.C. MO. No. 2

{Revised}

{Original} SHEET NO. 21

{Revised}

FOR – All Areas

Atmos Energy Corporation

Name of Issuing Corporation

Community, Town or City

UTILITY RELATED CHARGES (continued)

<sup>[1]</sup> In addition to the applicable reconnection fee a cumulative forgone applicable Delivery Charge will be assessed for the number of days that the customer was seasonally off. (no. of days off system divided by 30 days times the applicable tariff monthly Delivery Charge under the applicable Residential or Small General Service tariff (rounded to the nearest whole dollar)). This cumulative fee will not be applicable to Customer's off for more than seven (7) months, and the maximum amount of days off of the system for which the customer can be assessed this charge shall be 60 days (two months):

	<u>Northeast</u>	<u>Southeast</u>	<u>West</u>
The maximum allowed charge to customers in each area shall be:	\$ 45.00	\$ 28.00	\$ 40.00

All Service Areas

Excess flow valves – installation	\$65.00	-
- maintenance	\$900.00	

Interest rate to be paid on Customer's Deposits

“Interest on deposits shall be paid on a per annum rate equal to the prime bank lending rate plus one percentage point as published in The Wall Street Journal for the last business day of the preceding calendar year, compounded annually”

DATE OF ISSUE:

DATE EFFECTIVE:

month day year

month day year

ISSUED BY: Mark Martin Vice President-Rates and Regulatory Affairs

Owensboro, KY

name of officer

title

address

Atmos Energy Corporation

FOR - All Areas

Name of Issuing Corporation

Community, Town or City

RESIDENTIAL FIRM SERVICE

AVAILABILITY:

This schedule is available to Customers consuming gas for space heating, water heating, cooking, air conditioning and other proper purposes in private residences, individual apartments and in a multi-family dwelling, and using a type A or B meter. Service may not be shared or resold.

CHARACTER OF SERVICE:

Service hereunder will not normally be subject to curtailment except as may become necessary under the Curtailment Provisions, Sheet Numbers 106 through 108 of the Company's tariffs. Gas supplied will have a nominal heating value of approximately 1000 Btu's per cubic foot.

MONTHLY DELIVERY CHARGE & VOLUMETRIC RATES:

	Northeast	Southeast	West
Delivery Charge (per meter)	\$22.68	\$13.75	\$20.17
Distribution Commodity Rate (per Ccf)	\$.11546	\$.08735	\$.10682

Minimum Bill is equal to the monthly Delivery Charge plus applicable rate adjustments.

RATE ADJUSTMENTS:

- Purchased Gas Adjustment: To the rates stated above the Total Purchased Gas Adjustment (PGA) factor will be billed to recover the cost of gas pursuant to the Company's Purchased Gas Adjustment Clause.
- Taxes: Any franchise, gross receipts, license or occupation tax levied by any city, town, community, or other taxing authority on the amounts billed under this tariff, including applicable adjustments, will be added to bills rendered to Customers in such community or tax district.
- Utility Related Charges: Service charges may be applicable pursuant the terms of utility Related Charges tariff, Sheet Numbers 20 through 21.
- Infrastructure System Replacement Surcharge: Pursuant to Missouri Public Service Commission approval, a monthly ISRS charge as provided on Tariff Sheet Number 19 is applicable to this rate.

DATE OF ISSUE:

DATE EFFECTIVE:

month day year

month day year

ISSUED BY: Mark Martin

Vice President-Rates and Regulatory Affairs

Owensboro, KY

name of officer

title

address

Canceling P.S.C. MO. No. 2

{Original} SHEET NO. 23  
{Revised}

Atmos Energy Corporation

FOR – All Areas

Name of Issuing Corporation	Community, Town or City
<b>RESIDENTIAL FIRM SERVICE (CONT'D)</b>	
<p><u>RECONNECT CHARGE:</u>  This schedule is a continuous service schedule. If service is disconnected and thereafter restored at the same location for the same occupant within a seven (7) month period following the date of the service disconnection, a reconnection charge will become due and payable when service is restored. The charge, as outlined on Sheet Number 20, is \$24.00. If the reconnection is required outside normal working hours, an additional charge of \$26.00 will be levied to cover overtime costs. In addition to the applicable reconnection charge a cumulative forgone Delivery Charge will be assessed based on the number of days off divided by thirty (30) multiplied by the applicable Delivery Charge. The maximum amount of days off of the system for which the customer can be assessed this charge shall be 60 days (two months).</p> <p><u>TERMS OF PAYMENT:</u>  The Customers' monthly bills will be computed at the approved rates plus any applicable adjustments and will be considered delinquent if not paid within <b>21</b> days after the rendition of the bill. The Company shall add to any delinquent unpaid bill a sum equal to one and one half percent (1 ½ %) of the outstanding balance. In calculating the outstanding balance for these purposes, the Company may not include any amounts due to deposit arrears and amounts agreed to be paid under any deferred payment agreement. This late payment charge may not apply in certain circumstances where it is restricted by lawful statute or regulation. An unpaid bill shall be any undisputed amount that remains owing to the Company at the time of rendition of the next bill. Failure to pay the late payment charge is grounds for discontinuance of service.</p> <p><u>RULES AND REGULATIONS:</u>  Service will be rendered in accordance with the Company's standard Rules and Regulations for Gas Service on file with the Missouri Public Service Commission.</p>	

DATE OF ISSUE:

DATE EFFECTIVE:

ISSUED BY: Mark A. Martin  
month day year  
name of officer

Vice President-Rates and Regulatory Affairs  
title

month day year  
Owensboro, KY  
address

Atmos Energy Corporation

FOR – All Areas

Name of Issuing Corporation

Community, Town or City

**SMALL FIRM GENERAL SERVICE**

AVAILABILITY:

This schedule is available to Customers consuming gas for Commercial and Industrial purposes, as defined in the Company's Rules and Regulations, who uses a type A or B meter. Service may not be shared or resold.

CHARACTER OF SERVICE:

Service hereunder will not normally be subject to curtailment except as may become necessary under the Curtailment Provisions, Sheet Numbers 106 through 108 of the Company's tariffs. Gas supplied will have a nominal heating value of approximately 1000 Btu's per cubic foot.

MONTHLY DELIVERY CHARGE & VOLUMETRIC RATES:

	<u>Northeast</u>	<u>Southeast</u>	<u>West</u>
Delivery Charge (per meter)	\$22.68	\$13.75	\$20.17
Distribution Commodity Rate (Per Ccf)	\$.05778	\$.04536	\$.05944

Minimum Bill is equal to the monthly Delivery Charge plus applicable rate adjustments.

RATE ADJUSTMENTS:

1. Purchased Gas Adjustment: To the rates stated above, the total Purchased Gas Adjustment (PGA) factor for firm service will be applicable for the SGS Customer.
2. Taxes: Any franchise, gross receipts, license or occupation tax levied by any city, town, community, or other taxing authority on the amounts billed under this tariff including applicable adjustments, will be added to bills rendered to Customers in such community or tax district.
3. Utility Related Charges: Service charges may be applicable pursuant the terms of utility Related Charges tariff, Sheet Numbers 20 through 21.
4. Infrastructure System Replacement Surcharge: Pursuant to Missouri Public Service Commission approval, a monthly ISRS charge as provided on Tariff Sheet Number 19 is applicable to this rate.

DATE OF ISSUE:

DATE EFFECTIVE:

month day year

month day year

ISSUED BY: Mark Martin

Vice President-Rates and Regulatory Affairs

Owensboro, KY

name of officer

title

address

Canceling P.S.C. MO. No. 2

{Original} SHEET NO. 25  
{Revised}  
FOR - All Areas

Atmos Energy Corporation

Name of Issuing Corporation

Community, Town or City

**SMALL FIRM GENERAL SERVICE (CONT'D)**

RECONNECT CHARGE:

This schedule is a continuous service schedule. If service is disconnected and thereafter restored at the same location for the same occupant within a seven (7) month period following the date of the service disconnection, a reconnection charge will become due and payable when service is restored. The charge, as outlined on Sheet Number 20, is \$24.00. If the reconnection is required outside normal working hours, an additional charge of \$26.00 will be levied to cover overtime costs. In addition to the applicable reconnection charge a cumulative forgone Delivery Charge will be assessed based on the number of days off divided by thirty (30) multiplied by the applicable Delivery Charge. The maximum amount of days off of the system for which the customer can be assessed this charge shall be 60 days (two months).

TERMS OF PAYMENT:

The Customers' monthly bills will be computed at the approved rates plus any applicable adjustments and will be considered delinquent if not paid within 14 days after the rendition of the bill. The Company shall add to any delinquent unpaid bill a sum equal to one and one half percent (1 1/2 %) of the outstanding balance. In calculating the outstanding balance for these purposes, the Company may not include any amounts due to deposit arrears and amounts agreed to be paid under any deferred payment agreement. This late payment charge may not apply in certain circumstances where it is restricted by lawful statute or regulation. An unpaid bill shall be any undisputed amount that remains owing to the Company at the time of rendition of the next bill. Failure to pay the late payment charge is grounds for discontinuance of service.

RULES AND REGULATIONS:

Service will be rendered in accordance with the Company's standard Rules and Regulations for Gas Service on file with the Missouri Public Service Commission.

DATE OF ISSUE:

month day year

DATE EFFECTIVE:

month day year

ISSUED BY: Mark A. Martin  
name of officer

Vice President-Rates and Regulatory Affairs  
title

Owensboro, KY  
address

**Atmos Energy Corporation**

**FOR – All Areas**

Name of Issuing Corporation

Community, Town or City

**MEDIUM FIRM GENERAL SERVICE**

AVAILABILITY:

This schedule is available to Customers consuming gas for Commercial and Industrial purposes, as defined in the Company's Rules and Regulations, whose use per year is less than 75,000 Ccf, and does not use a type A or B meter. Service may not be shared or resold.

CHARACTER OF SERVICE:

Service hereunder will not normally be subject to curtailment except as may become necessary under the Curtailment Provisions, Sheet Numbers 106 through 108 of the Company's tariffs. Gas supplied will have a nominal heating value of approximately 1000 Btu's per cubic foot.

MONTHLY DELIVERY CHARGE & VOLUMETRIC RATES:

	<u>Northeast</u>	<u>Southeast</u>	<u>West</u>
Delivery Charge (per meter)	\$100.00	\$100.00	\$100.00
Distribution Commodity Rate (per Ccf)	\$.18615	\$.16607	\$.22190

Minimum Bill is equal to the monthly Delivery Charge plus applicable rate adjustments.

RATE ADJUSTMENTS:

1. Purchased Gas Adjustment: To the rates stated above, the total Purchased Gas Adjustment (PGA) factor for firm service will be applicable for the MGS Customer
2. Taxes: Any franchise, gross receipts, license or occupation tax levied by any city, town, community, or other taxing authority on the amounts billed under this tariff including applicable adjustments, will be added to bills rendered to Customers in such community or tax district.
3. Utility Related Charges: Service charges may be applicable pursuant the terms of utility Related Charges tariff, Sheet Numbers 20 through 21.
4. Infrastructure System Replacement Surcharge: Pursuant to Missouri Public Service Commission approval, a monthly ISRS charge as provided on Tariff Sheet Number 19 is applicable to this rate.

DATE OF ISSUE:

DATE EFFECTIVE:

month day year

month day year

ISSUED BY: Mark Martin

Vice President-Rates and Regulatory Affairs

Owensboro, KY

name of officer

title

address



Atmos Energy Corporation

FOR – All Areas

Name of Issuing Corporation

Community, Town or City

**LARGE FIRM GENERAL SERVICE**

AVAILABILITY:

This schedule is available to Customers consuming gas for Commercial and Industrial purposes, as defined in the Company's Rules and Regulations and whose use is at least 75,000 Ccf per year. Service may not be shared or resold. In order to assure adequate supplies of natural gas for electric generation, Customer must provide Company prior notice and confirmation of gas supply availability before gas consumption for electric generation begins. Any volumes not confirmed by Company for electric generation will be considered "unauthorized use" and subject to the charges provided below.

CHARACTER OF SERVICE:

Service hereunder will be subject to curtailment only as may become necessary under Curtailment Provisions, Sheet Numbers 106 through 108 of the Company's tariff. Gas supplied will have a nominal heating value of approximately 1000 Btu's per cubic foot.

MONTHLY DELIVERY CHARGE & VOLUMETRIC RATES:

	<u>Northeast</u>	<u>Southeast</u>	<u>West</u>
Delivery Charge (per meter)	\$500.00	\$500.00	\$500.00
Distribution Commodity Rate (per Ccf)	\$.11713	\$.14356	\$.15115

Minimum Bill is equal to the monthly Delivery Charge plus applicable rate adjustments.

RATE ADJUSTMENTS:

1. Purchased Gas Adjustment: To the rates stated above, the Total Purchased Gas Adjustment (PGA) factor for firm sales service, as applicable, will be billed to recover the cost of gas pursuant to the Company's Purchased Gas Adjustment Clause.

Any sales volumes taken in excess of those allowed by the Company during a period of curtailment, pursuant to its Curtailment Provisions, Sheet Nos. 106 through 108, will be "unauthorized use" and will be billed pursuant to the Unauthorized Use Charges below.

2. Taxes: Any franchise, gross receipts, license or occupation tax levied by any city, town, community, or other taxing authority on the amounts billed under this tariff, including applicable adjustments, will be added to bills rendered to Customers in such community or tax district.
3. Infrastructure System Replacement Surcharge: Pursuant to Missouri Public Service Commission approval, a monthly ISRS charge as provided on Tariff Sheet Number 19 is applicable to this rate.

DATE OF ISSUE:

DATE EFFECTIVE:

month day year

month day year

ISSUED BY: Mark Martin

Vice President-Rates and Regulatory Affairs

Owensboro, KY

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title

address

Canceling P.S.C. MO. No. 2

{Original} SHEET NO. 30

{Revised}

Atmos Energy Corporation

FOR – All Areas

Name of Issuing Corporation

Community, Town or City

**INTERRUPTIBLE LARGE VOLUME GAS SERVICE**

AVAILABILITY

To any commercial or industrial customer using at least 200,000 Ccf per year, or 1,000 Ccf per day during off-peak periods. Examples of customers utilizing natural gas during off-peak periods only would include, but is not limited to the following: asphalt plants, electric generating facilities, grain drying facilities, and farm irrigation systems.

Deliveries to such customers shall be subject to curtailment at any time. Deliveries to such customers shall be subject to curtailment in whole or in part upon one-half (1/2) hour's notice. During any interruption due to capacity or supply concerns, all Interruptible Gas Service Customers shall be interrupted when required on a pro rata basis.

Interruption shall occur at any time the Company is subject to any penalties being incurred and/or increased reservation or storage charges being incurred related to the Company's system supply gas needs. No penalties, short-term reservation or storage charges shall be used as costs of gas in the Actual Cost Adjustment factor computation during any period where interruptible Customers are not interrupted.

CHARACTER OF SERVICE:

Natural gas with a heating value of approximately 1,000 BTU per cubic foot, supplied through a single delivery point and a single meter, at the delivery pressure of the distribution system in the area, or such higher delivery pressure as delivered to the Customer.

MONTHLY DELIVERY CHARGE & VOLUMETRIC RATES:

	<u>Northeast</u>	<u>Southeast</u>	<u>West</u>
Delivery Charge (per meter)	\$500.00	\$500.00	\$500.00
Distribution Commodity Rate (per Ccf)	\$.11713	\$.14356	\$.15115

Minimum Bill is equal to the monthly Delivery Charge plus applicable rate adjustments.

DATE OF ISSUE:

DATE EFFECTIVE:

month day year

month day year

ISSUED BY: Mark A. Martin

Vice President-Rates and Regulatory Affairs

Owensboro, KY

name of officer

title

address

**Atmos Energy Corporation**  
Name of Issuing Corporation

**FOR – All Areas**  
Community, Town or City

PROMOTIONAL PRACTICES (continued)

RESIDENTIAL SECTOR (continued)

Residential Low Income Weatherization Assistance Program

DESCRIPTION AND AVAILABILITY:

This program is designed to provide energy education and weatherization assistance to low-income residential customers to assist customers in reducing their energy consumption and thus reduce their natural gas utility bill. This program component of the Company's Energy Conservation and Efficiency Program shall receive, on annual basis, \$105,000 of the \$150,000 included in base rates, for assistance to eligible low-income customers of Atmos who use natural gas for space heating. Additional annual funding may be designated for this program in accordance with decisions by the Energy Efficiency Advisory Group.

TERMS AND CONDITIONS:

- A.) Each year on or before September 1, the Company shall make a payment to the Environmental Improvement and Energy Resource Authority ("EIERA") in the applicable amount for Low-Income Weatherization, administered through DNR. The weatherization funds will then be distributed to local agencies operating within the three geographic areas of the Company's Missouri service territory, which shall utilize the funds to weatherize the homes of Atmos' eligible low-income customers who use natural gas for space heating.
- B.) The total amount of Company assistance available to each customer shall be determined by the cost-effective improvements that can be made to a particular customer's residence and shall average no more than that in DNR's approved Plan with U.S. Department of Energy.
- C.) Program funds shall not be used for administrative costs, except costs incurred by the Community Action Agencies that are directly related to qualifying and assisting customers and identifying measures under this program. The amount of reimbursable administrative costs per participating household shall not exceed 15% of the total expenditures for each participating household.

DATE OF ISSUE:

month day year

ISSUED BY: Mark Martin  
name of officer

DATE EFFECTIVE:

month day year

Vice President-Rates and Regulatory Affairs  
title

Owensboro, KY  
address

Atmos Energy Corporation

FOR – All Areas

Name of Issuing Corporation

Community, Town or City

**ENERGY CONSERVATION AND EFFICIENCY PROGRAM**

PROGRAM DESCRIPTION:

In accord with this tariff and pursuant to the Unanimous Stipulation and Agreement in Case No. GR-2010-0192, the Company shall continue its programs designed to promote energy conservation, efficiency and education. Funding for the Energy Conservation and Efficiency Program ("Program") shall include \$150,000 per year in base rates (\$105,000 of which shall be annually dedicated to the Residential Low Income Weatherization Assistance Program component), with the utilization of a regulatory asset account mechanism for additional monies required to fund said Program. The Energy Efficiency Collaborative, composed of the Company, Commission Staff, Office of the Public Counsel and the Missouri Department of Natural Resources, will be renamed the Energy Efficiency Advisory Group ("EE Advisory Group"). The EE Advisory Group will operate as an advisory, rather than consensus, group and will continue to provide input to Atmos on the design, implementation and evaluation of the Program. This Program is intended to benefit all eligible customers via the funding of certain Conservation Efforts which will improve energy efficiency within the home and reduce energy consumption.

GENERAL TERMS AND CONDITIONS:

- A.) This program will remain in effect unless the program is modified or terminated by the Missouri Public Service Commission, or a court of competent jurisdiction invalidates or otherwise overturns the Commission's Report & Order in Case No. GR-2010-0192.
- B.) Any residual funds from the rebate and education components of the original program approved in GR-2006-0387 will be transferred as a liability to the regulatory asset account. The Company shall accumulate any additional Program costs (above the \$150,000) in regulatory asset accounts as the costs are incurred, for potential recovery in a future rate case. The regulatory asset account shall accrue interest at the Company's short-term debt rate through the Company's next rate case. Program costs in the regulatory asset account that have been prudently incurred will be included in rate base in the Company's next general rate case and amortized over six (6) years. Any future unspent Program funds provided by ratepayers, except for those funds paid to EIERA, will be credited to the regulatory asset account at the end of each Program year.

DATE OF ISSUE: \_\_\_\_\_  
month day year

DATE EFFECTIVE: \_\_\_\_\_  
month day year

ISSUED BY: Mark Martin  
name of officer

Vice President-Rates and Regulatory Affairs  
title

Owensboro, KY  
address

Cancelling P.S.C. MO. No. 2

Atmos Energy Corporation

FOR – All Areas

Name of Issuing Corporation

Community, Town or City

**ENERGY EFFICIENCY & CONSERVATION (Continued)**

C.) The various Conservation Efforts, and the amount of funds designated for each Conservation Effort, are subject to change after the annual evaluation, and Atmos will work with the Energy Efficiency Advisory Group (“EE Advisory Group”) to take reasonable actions toward a target of increasing the funding level for cost-effective conservation and energy efficiency programs for plan year ending in 2013 to 0.5% of the annual average of the Company’s Missouri Jurisdictional Total Revenues for the calendar years ending 2008, 2009 and 2010, as such Total Revenues are set forth in the Company’s Gas Annual Report filings with the Commission.

CONSERVATION EFFORTS:

**1.) Customer Education**

PURPOSE AND DESCRIPTION:

The Company will work with the EE Advisory Group to determine the target audience(s) as well as the funding level of the program. The intent shall be to educate customers and/or students concerning the importance of energy conservation, and to introduce ways to reduce their family’s energy consumption through various low or no-cost efficiency measures.

**2.) Residential Low Income Weatherization Assistance Program**

The specific terms and conditions of this Program are fully set forth under Promotional Practices Tariff Sheet 112.1.

**3.) High Efficiency Natural Gas Water Heating and Space Heating Rebates**

The specific terms and conditions of this Program are fully set forth under Pilot Programs Tariff Sheets 117-119.

DATE OF ISSUE: \_\_\_\_\_  
month day year

DATE EFFECTIVE: \_\_\_\_\_  
month day year

ISSUED BY: Mark A. Martin  
name of officer

Vice President-Rates and Regulatory Affairs  
title

Owensboro, KY  
address

Atmos Energy Corporation

FOR – All Areas

Name of Issuing Corporation

Community, Town or City

PILOT PROGRAMS

High Efficiency Natural Gas Water Heating and Space Heating Rebates

DESCRIPTION AND AVAILABILITY:

At annual funding levels determined by the EE Advisory Group pursuant to the General Terms and Conditions set forth at Sheet No. 115, the Company will promote more effective utilization of natural gas through the replacement of less efficient water heating and space heating equipment with high efficient Energy Star® rated natural gas equipment. Rebates are being offered to the Company's customers, on a limited basis, for a portion of the purchase and installation cost of programmable thermostats and Energy Star® rated natural gas equipment as described below.

The Program is voluntary and each type of rebate is available to any participant. Rebates must be redeemed through the Administrator. Participating Retailers and rebate forms are available at all of the Company's Missouri office locations as well as on the Company's website ([www.atmosenergy.com/ Missouri ECE Program](http://www.atmosenergy.com/MissouriECEProgram)), or by calling 1-877-333-9965.

DEFINITIONS:

Administrator - The Company or its Agent will administer this Conservation Effort.

Participant - A customer, under any service class, which is located in Missouri, and elects to purchase energy efficient gas saving equipment as described in this Conservation Effort.

Retailer - Any retailer who has agreed to sell the Energy Star® rated energy efficient natural gas equipment associated with this Program.

REBATES:

Rebates shall apply to customers purchasing programmable thermostats, Energy Star® rated natural gas furnaces, boilers, combo heating/ water heating systems, tank water heating systems, tankless water heating systems, or other such equipment as may be approved by the Administrator.

Each participant will receive a rebate after the completed rebate form is submitted with proper information.

DATE OF ISSUE: \_\_\_\_\_  
month day year

DATE EFFECTIVE: \_\_\_\_\_  
month day year

ISSUED BY: Mark A. Martin  
name of officer

Vice President-Rates and Regulatory Affairs  
title

Owensboro, KY  
address

Atmos Energy Corporation  
Name of Issuing Corporation

FOR – All Areas  
Community, Town or City

**PILOT PROGRAMS (CONTINUED)**

**High Efficiency Natural Gas Water Heating and Space Heating Rebates (continued)**

The terms of the rebate are as follows:

Upon receipt of a properly completed rebate form and associated documents, the Administrator will issue a check to the Participant within eight (8) to ten (10) weeks.

The following rebates may be paid to each participant:

- 1) Programmable thermostat – a rebate of twenty-five dollars (\$25) for a programmable thermostat purchased individually or in conjunction with an Energy Star® rated space heating system.
- 2) Energy Star® rated natural gas furnace or boiler – a rebate of two hundred and fifty dollars (\$250) for the purchase and installation of one (1) Energy Star® rated furnace unit or boiler.
- 3) Energy Star® rated combination space heating and water heating systems – a rebate of four hundred and fifty dollars (\$450) for the purchase of such system. These systems combine the heating system and the water heating system in one piece of equipment.
- 4) Energy Star® rated tank water heating system – a rebate of fifty dollars (\$50) for the purchase of a tank water heating system that meets current Energy Star® criteria.
- 5) Energy Star® rated tankless water heating system – a rebate of two hundred dollars (\$200) for the purchase of a tankless water heating system that meets current Energy Star® criteria.

TERMS AND CONDITIONS:

This Conservation Effort will conclude each year when the amount of funds for this rebate program has been fully utilized by its Participants. The Administrator shall require a reservation be made by each individual seeking a rebate in order to ensure that ample funds are available at the time the customer has the new equipment installed.

DATE OF ISSUE: \_\_\_\_\_  
month day year

DATE EFFECTIVE: \_\_\_\_\_  
month day year

ISSUED BY: Mark A. Martin  
name of officer

Vice President-Rates and Regulatory Affairs  
title

Owensboro, KY  
address

**Atmos Energy Corporation**  
Name of Issuing Corporation

**FOR – All Areas**  
Community, Town or City

**RESERVED FOR FUTURE USE**

DATE OF ISSUE: \_\_\_\_\_  
month day year

DATE EFFECTIVE: \_\_\_\_\_  
month day year

ISSUED BY: Mark A. Martin  
name of officer

Vice President-Rates and Regulatory Affairs  
title

Owensboro, KY  
address



**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 18<sup>th</sup> day of August, 2010.

In the Matter of Atmos Energy Corporation's Tariff )  
Revision Designed to Implement a General Rate ) **File No. GR-2010-0192, et al.**  
Increase for Natural Gas Service in the Missouri ) Tariff No. YG-2010-0426  
Service Area of the Company )

**ORDER APPROVING STIPULATION AND AGREEMENT**

**Procedural History**

On December 28, 2009, Atmos Energy Corporation (“Atmos”) submitted a tariff designed to implement a general rate increase for natural gas service. Atmos indicates the new gas service rates are designed to increase its gross annual revenues by approximately \$6,438,586.<sup>1</sup> The submitted tariff carries a January 28, 2010 effective date.

On January 6, 2010, the Commission issued notice, set an intervention deadline and suspended the tariff for the maximum time allowed by statute<sup>2</sup> in order to have sufficient time to determine if the rate increase request was just and reasonable and in the public interest. The suspension of the tariffs initiated a contested case.<sup>3</sup> A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities<sup>4</sup> and a decision without a hearing,<sup>5</sup> including by stipulation and agreement.<sup>6</sup>

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<sup>1</sup> On February 3, 2010, the Commission consolidated this case with GR-2006-0387, Atmos' prior rate case that had been remanded to the Commission by the Western District Court of Appeals.

<sup>2</sup> Section 393.150, RSMo 2000.

<sup>3</sup> Section 393.150.1, RSMo 2000; and Section 536.010(4), RSMo Supp. 2009.

<sup>4</sup> Sections 536.060(3) and 536.063(3), RSMo 2000.

The Commission granted timely intervention requests to Noranda Aluminum, Inc., and the Missouri Department of Natural Resources, and granted late intervention to the International Brotherhood of Electrical Workers, local 1439, AFL-CIO. Ultimately, Local 1439 voluntarily withdrew.

On February 16, 2010, the Commission adopted a procedural schedule, established the Test Year, and adopted the proposed customer notice. The procedural schedule was modified and the evidentiary hearing was set to begin on August 23, 2010. The Commission held eight local public hearings in the cities of Palmyra, Hannibal, Kirksville, Butler, Caruthersville, Hayti, Sikeston, and Jackson, to take public comment on the proposed rate increase request.

The parties held a settlement conference July 12-15, 2010 and on August 11, 2010, they filed a Unanimous Stipulation and Agreement (“Agreement”). The Agreement purports to settle all issues in this matter. And, because the parties reached a settlement, the Commission suspended the procedural schedule and set an On-the-Record presentation so the Commission could inquire into the specific terms of the Agreement.

### **The Agreement**

The agreement waives procedural requirements that would otherwise be necessary before final decision,<sup>7</sup> including each commissioner’s duty to either hear all the evidence or read the full record.<sup>8</sup> Also, because the settlement disposes of this action, the Commission

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<sup>5</sup> Sections 536.060, RSMo 2000.

<sup>6</sup> *Id.* and 4 CSR 240-2.115.

<sup>7</sup> Section 536.060, RSMo 2000.

<sup>8</sup> Section 536.080.2, RSMo 2000.

need not separately state its findings of fact.<sup>9</sup> Therefore, the Commission incorporates the terms of the Agreement into this order.

This order would be unnecessary altogether if Atmos dismissed its action, or if the Commission allowed the tariff to take effect by operation of law alone.<sup>10</sup> But that is not the outcome that the parties seek. The parties do not waive final decision.<sup>11</sup> On the contrary, the parties expressly ask for an “Order approving all of the specific terms and conditions of this Stipulation.” The Agreement’s terms include rates for gas service, rate design, the reclassification of certain customers, billing determinants, treatment of special contracts, terms on reasonable reconnection charges, the withdrawal of a proposal to recover bad debt by means of a PGA, withdrawal of a proposal to eliminate *de minimis* ACA balances, ISRS calculations, an Energy Conservation and Efficiency program and a bill check-off program. And, without further discussion, the Commission incorporates all provisions of the Agreement, as if fully set forth, into this order.

With regard to revenue requirement and rate design, the parties agree and recommend that the Commission authorize Atmos to increase its annual non-gas, Missouri jurisdictional revenues by \$5,650,000, which includes approximately \$1,000,000 in infrastructure system replacement surcharge revenues previously authorized by the Commission. The parties agree to the adoption of a two-part rate design whereby the existing three rate districts are maintained. But, a majority of the rate increase resulting from the Agreement will be recovered in volumetric rates.

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<sup>9</sup> Section 536.090, RSMo 2000.

<sup>10</sup> Section 393.150, RSMo 2000.

<sup>11</sup> Nor can they. *Weber v. Firemen's Retirement System*, 872 S.W.2d 477, 480 (Mo. banc, 1994).

Approximately 75% of the total revenue charged to the Residential and Small Firm General Service classes will be recovered through delivery rates. Revenue increases for the Medium General Service, Large General Service, Interruptible Large Volume Gas, and Transportation Service classes will be allocated on an across-the-board equal percentage basis to all rate elements. Additionally reclassifying commercial customers into the Small General Service, Medium General Service and Large General Service classes should be adopted by grouping all Type A and Type B meters into the Small General Service class, and all non-Type A and non-type B meters in the Medium General Service and Large General Service classes. The customers in these classes may request a review to determine if they would qualify for a different class through a meter replacement.

The parties further request the Commission to order Atmos to file tariff sheets, to be effective for service rendered on or after September 1, 2010 in conformity with the specimen tariff sheets attached to the Agreement.

### **Ratemaking Standards**

The standard for rates is “just and reasonable,”<sup>12</sup> a standard founded on constitutional provisions, as the United States Supreme Court has explained:

Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the services are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment.<sup>13</sup>

But the Commission must also consider the customers:

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<sup>12</sup> *Id.* and Section 393.150.2, RSMo 2000.

<sup>13</sup> *Bluefield Water Works & Improvement Co. v. Public Serv. Com'n of the State of West Virginia*, 262 U.S. 679, 690 (1923).

The rate-making process . . . i.e., the fixing of 'just and reasonable' rates, involves a balancing of the investor and the consumer interests.<sup>14</sup>

Further, that balancing has no single formula:

The Constitution does not bind rate-making bodies to the service of any single formula or combination of formulas. Agencies to whom this legislative power has been delegated are free, within the ambit of their statutory authority, to make the pragmatic adjustments which may be called for by particular circumstances.<sup>15</sup>

Moreover, making such pragmatic adjustments is part of the Commission's duty:

What annual rate will constitute just compensation depends upon many circumstances and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts.<sup>16</sup>

And:

[T]he Commission [is] not bound to the use of any single formula or combination of formulae in determining rates. Its rate-making function, moreover, involves the making of 'pragmatic adjustments.'<sup>17</sup>

Thus, the law requires a just and reasonable end, but does not specify a means:

Under the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling. It is not theory but the impact of the rate order which counts.<sup>18</sup>

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<sup>14</sup> *Federal Power Com'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

<sup>15</sup> *Federal Power Com'n v. Natural Gas Pipeline Co.*, 315 U.S. 575, 586 (1942).

<sup>16</sup> *Bluefield*, 262 U.S. at 692.

<sup>17</sup> *State ex rel. Associated Natural Gas Co. v. Public. Serv. Com'n*, 706 S.W.2d 870, 873 (Mo. App. 1985) (citing *Hope Natural Gas Co.*, 320 U.S. at 602-03).

<sup>18</sup> *Id.*

The means employed in the settlement consists of “rate case usage parameters [<sup>19</sup>]” which is a system of policy decisions and accountancy conventions. Determining whether a rate adjustment is necessary requires comparing Atmos’ current net income to Atmos’ revenue requirement. Revenue requirement is the amount of money that a utility may collect per year, which depends on the requirements for providing safe and effective service at a profit.

Those requirements are tangible and intangible:

From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock.<sup>20</sup>

That and similar holdings have led to a conventional analysis of the resources devoted to service, from which the Commission determines revenue requirement as follows.

To provide service, a utility devotes resources, which accounting conventions classify as either expense or investment. Expenses include operation, replacement of capital items as they depreciate (“current depreciation”), and taxes on the return. Investment is the basis (“rate base”) on which the utility seeks profit (“return”). Return is therefore a percentage (“rate of return”) of rate base. Rate base includes capital assets (“gross plant”), less historic deterioration of such assets (“accumulated depreciation”), plus other items.

Those components relate to each other in the following formula:

Revenue Requirement = Cost of Providing Utility Service or  $RR = O + (V - D) R$  where,

RR = Revenue Requirement;  
O = Operating Costs; (such as fuel, payroll, maintenance, etc., Depreciation and Taxes);  
V = Gross Valuation of Property Used for Providing Service;

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<sup>19</sup> *Stipulation and Agreement*, page 2, paragraph 3.

<sup>20</sup> *Hope Natural Gas Co.*, 320 U.S. at 603 (1944).

- D = Accumulated Depreciation Representing the Capital Recovery of Gross Property Investment.
- $(V - D)$  = Rate Base (Gross Property Investment less Accumulated Depreciation = Net Property Investment)
- R = Overall Rate of Return or Weighted Cost of Capital
- $(V - D) R$  = Return Allowed on Net Property Investment

But determining the revenue requirement does not end the analysis, because the utility must collect that amount from its customers, and all customers need not receive identical treatment. Rate design is how a utility distributes its revenue requirement among its various classes of customer. Customers vary as to the costs attributable to their service. Accordingly, their rates should reflect their costs, respectively. Just and reasonable rates may account for such differences among customers.

### **Conclusions<sup>21</sup>**

A utility has the burden of proving that increased rates are just and reasonable<sup>22</sup> by a preponderance of the evidence.<sup>23</sup> In this order, the Commission grants the parties' request to enter all pre-filed testimony and affidavits prepared by the parties into the record. The record thus contains substantial and competent evidence. The Commission has compared the substantial and competent evidence on the whole record with the Agreement as to both rate adjustment and rate design. The Commission independently finds and concludes that Atmos has met its burden of proof that the rates proposed in the Agreement are just and reasonable rates. Additionally, upon review of the record and the Agreement, the Commission independently finds and concludes that the Agreement's proposed terms support safe and adequate service.

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<sup>21</sup> Section 386.420.2, RSMo 2000 requires a report of the Commission's conclusions.

<sup>22</sup> Section 393.150.2, RSMo 2000.

<sup>23</sup> *State Board of Nursing v. Berry*, 32 S.W.3d 638, 641 (Mo. App. 2000).

**THE COMMISSION ORDERS THAT:**

1. The Unanimous Stipulation and Agreement filed on August 10, 2010 is approved.

A copy of the Agreement shall be attached to this order as "Attachment A."

2. The tariff submitted under Tariff File No. YG-2010-0426, on December 28, 2009, by Atmos Energy Corporation, for the purpose of increasing rates for natural gas service, is rejected. The specific tariff sheets rejected are:

**P.S.C. MO. No. 2**

- 2nd Revised Sheet No. 2, Cancelling 1st Revised Sheet No. 2
- 2nd Revised Sheet No. 19, Cancelling 1st Revised Sheet No. 19
- 1st Revised Sheet No. 21, Cancelling Original Sheet No. 21
- 2nd Revised Sheet No. 22, Cancelling 1st Revised Sheet No. 22
- 1st Revised Sheet No. 23, Cancelling Original Sheet No. 23
- 2nd Revised Sheet No. 24, Cancelling 1st Revised Sheet No. 24
- 1st Revised Sheet No. 25, Cancelling Original Sheet No. 25
- 2nd Revised Sheet No. 26, Cancelling 1st Revised Sheet No. 26
- 2nd Revised Sheet No. 28, Cancelling 1st Revised Sheet No. 28
- 1st Revised Sheet No. 30, Cancelling Original Sheet No. 30
- 2nd Revised Sheet No. 42, Cancelling 1st Revised Sheet No. 42
- 2nd Revised Sheet No. 43, Cancelling 1st Revised Sheet No. 43
- 2nd Revised Sheet No. 115, Cancelling 1st Revised Sheet No. 115
- 2nd Revised Sheet No. 116, Cancelling 1st Revised Sheet No. 116
- 2nd Revised Sheet No. 117, Cancelling 1st Revised Sheet No. 117
- 2nd Revised Sheet No. 118, Cancelling 1st Revised Sheet No. 118
- 1st Revised Sheet No. 119, Cancelling Original Sheet No. 119

3. The prefiled testimony, including all exhibits, appendices, schedules, etc. attached thereto, as well as all reports of all witnesses, that are already filed in the Commission's electronic filing and Information system ("EFIS") are hereby admitted into evidence. A copy of the exhibits list is attached to this order as "Attachment B." A notation in EFIS for the issuance of this order shall stand in lieu of a notation in EFIS for any exhibit's entry into the record.



4. Atmos Energy Corporation shall file new tariff sheets consistent with this order and the specimen tariff sheets attached to the Unanimous Stipulation and Agreement no later than August 19, 2010, bearing an effective date of September 1, 2010.

5. The Commission's Staff may either join Atmos Energy Corporation with filing its compliance tariff sheets, or file a separate recommendation regarding their approval no later than August 20, 2010.

6. This order shall become effective on August 27, 2010, except for paragraphs 4 and 5 that shall become effective immediately upon this order's issuance.

**BY THE COMMISSION**

( S E A L )

**Steven C. Reed**  
**Secretary**

Davis, Jarrett, Gunn, and Kenney, CC., concur;  
Clayton, Chm., dissents with dissenting opinion to follow.

Stearley, Senior Regulatory Law Judge

**Schedule KC 2**

**Is Deemed**

**Highly**

**Confidential**

**In Its Entirety**