

Exhibit No.:  
Issue: Prudence of gas costs  
Witness: Rebecca Buchanan  
Type of Exhibit: Surrebuttal Testimony  
Sponsoring Party: Atmos Energy Corporation  
Case No.: GR-2009-0417  
Date Testimony Prepared: August 11, 2011

**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO.: GR-2009-0417**

**SURREBUTTAL TESTIMONY**

**OF**

**REBECCA BUCHANAN**

**ON BEHALF OF**

**ATMOS ENERGY CORPORATION**

Franklin, Tennessee  
August 2011

**\*\*** \_\_\_\_\_ **\*\*\*** Designates "Highly Confidential" Information.  
**All Such Information Should Be Treated Confidentially**  
**Pursuant To 4 CSR 240-2.135.**

**NON-PROPRIETARY**

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

In the Matter of Atmos Energy  
Corporation's 2008-2009 Purchased Gas  
Adjustment and Actual Cost Adjustment

)  
)  
)

Case No. GR-2009-0417

**AFFIDAVIT OF REBECCA M. BUCHANAN**

STATE OF TENNESSEE

)

) ss

COUNTY OF WILLIAMSON

)

Rebecca M. Buchanan, being first duly sworn on her oath, states:

1. My name is Rebecca M. Buchanan I am employed by Atmos Energy Corporation as Manager, Regional Gas Supply. My business address is 377 Riverside Dr, suite 201, Franklin, TN 37064-5393.

2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of Atmos Energy Corporation consisting of twenty-three (23) pages, all of which having been prepared in written form for introduction into evidence in the above-captioned docket.

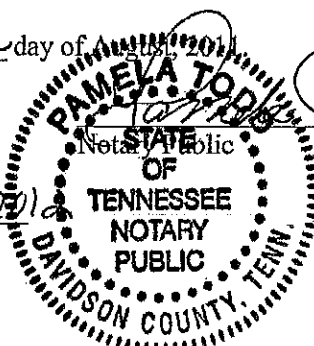
3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.



Rebecca M. Buchanan

Subscribed and sworn before me this 11th day of August, 2011

My commission expires: May 8, 2012



My Commission Expires May 8, 2012

---

**SURREBUTTAL TESTIMONY OF  
REBECCA M. BUCHANAN  
ATMOS ENERGY CORPORATION**

---

1   **Q.     PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2   A.     My name is Rebecca M. Buchanan. My business address is 377 Riverside Dr., Suite  
3           201, Franklin TN, 37064.

4   **Q.     DID YOU FILE DIRECT AND REBUTTAL TESTIMONY IN THIS**  
5           **DOCKET GR-2009-0417?**

6   A.     Yes.

7   **Q.     HAVE YOU REVIEWED THE REBUTTAL TESTIMONY OF STAFF WITNESS**  
8           **DAVID M. SOMMERER?**

9   A.     Yes.

10  **Q.     WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

11  A.     The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of Mr.  
12           Sommerer. First, I will give a brief explanation of gas supply procurement and explain  
13           why Atmos uses gas marketers to obtain its supply. I will discuss the role of the  
14           Company's gas supply department and contrast it with the services provided by gas  
15           marketers. I will clarify or correct numerous statements made by Mr. Sommerer that are  
16           either misleading or incorrect, as well as point out several instances where Mr. Sommerer  
17           makes baseless speculations. Further, I will show that although Mr. Sommerer claims

1 that certain information is crucial to his inquiry, the information was not requested during  
2 the course of the audit and in some cases, not until after Staff's rebuttal testimony was  
3 filed. Finally, I will demonstrate that Mr. Sommerer's testimony has little basis in fact  
4 and has not raised any reasonable questions about the prudence of the actual gas costs  
5 incurred.

6 **Q. WHAT ARE THE MAJOR CONCERNS RAISED BY MR. SOMMERER IN HIS**  
7 **REBUTTAL TESTIMONY?**

8 A. Mr. Sommerer introduces three main concerns in his rebuttal testimony. First, he  
9 complains that the "limited information provided by Atmos was not adequate."  
10 (Sommerer Rebuttal, p. 2, line 4) Second, Mr. Sommerer criticizes the Company's bid  
11 design as "inflexible." (Sommerer Rebuttal, p. 2 lines 17-18) Third, he points out that  
12 the Atmos' RFP does not distinguish between primary and secondary firm capacity.  
13 (Sommerer Rebuttal, p. 3, lines 1-2)

14 **Q. ARE THESE THE SAME ISSUES RAISED IN CASE NO. GR-2008-0364?**

15 A. No. Aside from the contention that Staff did not have enough information to perform its  
16 review, the complaints regarding Atmos' bid design and RFP process are new.

17 **Q. WOULD YOU EXPECT THE ISSUES IN THIS DOCKET TO BE THE SAME AS**  
18 **THOSE IN CASE NO. GR-2008-0364?**

19 A. Yes. The affiliate contracts at issue in this docket are the same affiliate contracts  
20 resulting from the same RFP process as those at issue in Case No. GR-2008-0364. I  
21 would expect issues in this case to resemble those raised in the last case. Not only are  
22 Staff's issues new, but Staff is also recommending a larger disallowance in this docket

1 even though the affiliate contracts were in effect for a shorter period of time during the  
2 2009 ACA period.

3 **Q. ARE THESE THE SAME ISSUES RAISED IN MR. SOMMERER'S DIRECT?**

4 A. No. Not only are the bid design and RFP issues not the same as the 2008 docket, they are  
5 not even the same as the issues initially raised by Staff in its direct testimony.  
6

7 **GAS SUPPLY OVERVIEW**

8 **Q. WHY HAVE YOU CHOSEN TO BEGIN YOUR TESTIMONY WITH AN**  
9 **EXPLANATION OF THE GAS SUPPLY BUSINESS?**

10 A. Throughout the course of this gas cost case, as well as the last, much of Staff's testimony  
11 has been predicated on what seems to be a fundamental misunderstanding of how gas  
12 procurement works vis-à-vis the utility and third party gas marketers. Although I have  
13 testified about this before, I wanted to take this opportunity to step back and give a very  
14 fundamental overview of how and why the utility uses third party marketers.

15 **Q. DO YOU HAVE KNOWLEDGE OF STAFF'S EXPERIENCE WITH REGARD**  
16 **TO THIRD PARTY MARKETERS?**

17 A. During discovery, Atmos asked Staff if it had any direct knowledge of how marketers,  
18 specifically unaffiliated marketers, purchase gas. Mr. Sommerer responded that he was  
19 unaware of any Staff members who have worked for natural gas marketers. Further, he  
20 stated that his own knowledge "is based on his general knowledge of how LDCs, who  
21 sometimes have off-system sales markets, buy and sell gas." (Staff Response to Atmos  
22 DR-7) Although Mr. Sommerer admits to a lack of knowledge about the internal  
23 workings of natural gas marketers, that does not stop him from testifying, without any

1 basis, regarding his beliefs about what a marketer may understand or what risk the  
2 marketer is willing to take. (Sommerer Rebuttal, p. 7, lines 8-9, pp. 8-9, lines 23-2, and  
3 p. 10, lines 13-15)

4 **Q. DO LDCs AND THIRD PARTY MARKETERS OPERATE THE SAME WAY**  
5 **WITH RESPECT TO THEIR GAS PURCHASING ACTIVITIES?**

6 A. No. Utilities and marketers operate with different purposes and purchasing power  
7 regarding gas supply. The utility's primary focus is to ensure a reliable supply to its  
8 customers, which are primarily residential and commercial in nature, at the best cost  
9 available to the utility. Although the costs of gas supply procurement personnel are  
10 included in rate base, the utility does not earn a return on the commodity itself. The  
11 utility's obligation is to make prudent purchases to ensure reliability at the best possible  
12 price. The utility procures gas only for its customers in its jurisdictional service area and  
13 does not engage in larger portfolio type purchases. The utility does not have the ability to  
14 combine its gas requirements with those of other organizations. One of the primary ways  
15 that Atmos is able to maintain efficient, low cost service is to focus on its core  
16 competency, the business of natural gas distribution, and leave functions like asset  
17 optimization and gas trading to other organizations that specialize in such functions when  
18 it is appropriate to do so.

19 **Q. HOW DOES THIS DIFFER FROM A GAS MARKETER?**

20 A. While utilities are only able to procure gas for themselves, gas marketers buy gas  
21 upstream for their entire portfolio of customers. A marketer's customers are not limited  
22 to utilities. Because third party gas marketers can aggregate all of their customers'  
23 requirements and purchase more gas upstream, they are able to attract different upstream

1 suppliers and obtain better gas prices than utilities. Gas marketers have the expertise and  
2 purchasing power to take advantage of commodity price movements in order to maximize  
3 their margins. It is conceivable, however, that a third party marketer may lose money on  
4 a gas deal if it has contracted to sell gas to a customer at a certain price and is later unable  
5 to buy gas at that price or lower. This is a risk marketers accept in exchange for the  
6 opportunity to earn a profit.

7 **Q. IS ATMOS' RFP PROCESS OPEN TO THE THIRD PARTY GAS MARKETERS'**  
8 **UPSTREAM SUPPLIERS?**

9 A. Absolutely. The RFP process, as well as Atmos' RFP website, is open to all suppliers.

10 **Q. HAS STAFF PRESENTED ANY TESTIMONY THAT IT HAS KNOWLEDGE**  
11 **THAT NON-AFFILIATED THIRD PARTY MARKETERS ENGAGE IN ANY**  
12 **DIFFERENT PRACTICES FROM AFFILIATED MARKETERS?**

13 A. No. Atmos asked Staff to provide all support or evidence in its possession showing that  
14 no unaffiliated supplier used interruptible supply, spot gas, interruptible transportation, or  
15 any other risk taking measure to fulfill firm service obligations to Atmos. Although Staff  
16 continues to raise the specter that AEM engages in any or all of these possibly "risky"  
17 practices, it cannot provide any support for the proposition that these alleged practices are  
18 materially different from those of any other gas marketer. (Staff Response to Atmos DR-  
19 10)

20 **Q. DID STAFF INVESTIGATE THE QUALIFICATIONS OF THE NON-**  
21 **AFFILIATED SUPPLIERS SELECTED BY ATMOS DURING THE ACA**  
22 **PERIOD?**

1 A. No. Apparently Staff trusts Atmos to select qualified bidders so long as they are non-  
2 affiliated. In DR-9, Atmos asked Staff to provide evidence of any analysis performed  
3 with respect to the special skills and value-added capabilities from the gas suppliers used  
4 by the LDC during the ACA period. Not only did Staff have no documentation that any  
5 analysis was performed, it went on to explain that "Atmos policies and procedures for  
6 selection of qualified bidders should contain the reviews to be conducted by Atmos in  
7 selecting bidders." (Staff Response to Atmos DR-9)

8 **Q. IS STAFF CHALLENGING THE PRUDENCE OF GAS PURCHASED FROM**  
9 **NON-AFFILIATED GAS MARKETERS USING THE SAME PROCESS USED**  
10 **TO SELECT THE AFFILIATED GAS MARKETER?**

11 A. No. Although Atmos uses the same RFP process in all instances, Staff has only chosen to  
12 recommend disallowances for costs resulting from the contracts awarded to the affiliate  
13 gas marketer. Staff admits that it has not inquired into the practices of any other  
14 marketers used by Atmos during the ACA period.

15 **Q. ON PAGE 10, LINES 22-23, MR. SOMMERER TESTIFIES THAT THERE ARE**  
16 **MANY SUBTLE WAYS THAT A WILLING LDC CAN "WORK WITH" ITS**  
17 **AFFILIATE TO GIVE THE AFFILIATE ADVANTAGES NOT AVAILABLE TO**  
18 **THIRD PARTY SUPPLIERS. IS THERE ANY EVIDENCE THAT THIS HAS**  
19 **HAPPENED IN THIS CASE?**

20 A. No. Staff makes this suggestion but fails to describe either the "many subtle ways" or the  
21 resulting "advantages." Contrary to the implications Staff makes in its testimony, the  
22 Staff has no evidence regarding intentional attempts of Atmos' Gas Supply personnel to  
23 increase the profits of the affiliate. (Staff Response to Atmos DR-2)



1   **Q.   PLEASE SUMMARIZE YOUR OVERVIEW OF GAS SUPPLY.**

2   A.   Following an RFP process open to all willing suppliers, Atmos locks in contracts with the  
3       qualified suppliers offering the best available price. Gas suppliers shoulder any risk that  
4       may exist in exchange for an opportunity to earn profits, an opportunity available to both  
5       affiliated and non-affiliated suppliers. The idea that AEM, as an affiliated marketer, goes  
6       about its business in a materially different way from unaffiliated marketers is  
7       unsupported and without merit. Plainly, the utility cannot purchase gas at the same price  
8       as a third party gas marketer, unless that price has been submitted by a willing supplier in  
9       the RFP process. This is true whether the affiliate participates in the RFP or not.

10   **Q.   IS IT LIKELY THAT YOUR GAS SUPPLY DEPARTMENT WOULD OBTAIN**  
11       **GAS AT THE SAME PRICES AS THIRD PARTY MARKETERS?**

12   A.   No, I don't think it is likely given the discussion above, however, the utility has made its  
13       RFP process open and available to all sellers willing to submit a bid to the utility. If  
14       upstream suppliers were willing to sell gas to the utility at the same price that they sell to  
15       third party marketers, there is nothing to prevent them from submitting their proposal in  
16       response to the Company's RFP. In fact, we welcome and encourage all suppliers and  
17       marketers to participate Mr. Sommerer's assertion on lines 20-21 of page 15 of his  
18       rebuttal that "the primary indicator of fair market value is AEM's cost of gas supply" is  
19       simply not true. Fair market price, as Staff has previously agreed during Case No. GR-  
20       2008-0364, can only be determined by finding the price at which a willing seller will sell  
21       to a willing buyer on the open market and in armslength transaction. (Evidentiary  
22       Hearing Transcript, page 627, lines 6-8).

1 **Q. DOES YOUR TESTIMONY APPLY EQUALLY TO AFFILIATED AND NON-**  
2 **AFFILIATED GAS MARKETERS?**

3 A. Yes.  
4  
5

6 **LIMITED INFORMATION**

7 **Q. HAS ATMOS PROVIDED EVERY PIECE OF INFORMATION REQUESTED**  
8 **BY STAFF DURING DISCOVERY?**

9 A. Yes. Atmos has endeavored to respond to each question posed during discovery with the  
10 most complete and accurate information possible. Additionally, it is my understanding  
11 that AEM has likewise agreed to respond to discovery even though they are not a party to  
12 this case, nor are they regulated by this Commission.

13 **Q. HAS STAFF FILED ANY MOTIONS TO COMPEL AGAINST ATMOS OR AEM**  
14 **IN THIS CASE?**

15 A. No.

16 **Q. WHY WOULD STAFF THEN TESTIFY THAT IT DID NOT HAVE ADEQUATE**  
17 **INFORMATION TO CONDUCT ITS PRUDENCY REVIEW?**

18 A. In some cases the records requested by Staff simply don't exist because Atmos does not  
19 accomplish its transactions with AEM through allocations. Although Atmos is aware  
20 that other LDCs may use a process of allocation between the utility and the affiliated  
21 marketer, that is not how Atmos accomplishes its transactions with AEM. Following the  
22 RFP process in which AEM is the successful bidder, Atmos enters into a contract with  
23 AEM formalizing the lowest and best bid. AEM invoices Atmos according to these

1 contract terms, and Atmos pays the invoice amount. This is how Atmos deals with all  
2 gas suppliers. There are no allocations made between the utility and the affiliate that are  
3 specific to the gas supply deal. Any other allocations of shared services that may occur at  
4 the corporate level are contained in the Cost Allocation Manual, a document that is filed  
5 with Staff annually.

6 **Q. WHAT ABOUT STAFF'S CONTENTION THAT RULES REQUIRE ATMOS TO**  
7 **PROVIDE COST ALLOCATION INFORMATION?**

8 A. Staff seems to be assuming that AEM allocates some of its costs to Atmos, and that  
9 therefore the allocated cost information needs to be available for Staff to audit. However,  
10 as I have already explained, AEM does not allocate any costs to Atmos. It simply offers  
11 to provide gas supplies to Atmos like any other gas marketer through the competitive  
12 bidding process. The affiliated transaction rule should not be interpreted to require the  
13 utility to fabricate information that doesn't exist for transactions that didn't happen. The  
14 absence of information does not indicate a failure of recordkeeping, as Mr. Sommerer  
15 suggests on lines 8-10 of page 17 of his rebuttal. Staff continues to beat the drum about  
16 the lack of information regarding allocations, while turning a willfully blind eye to  
17 Atmos' testimony about the nature of the transactions under review and failing to  
18 acknowledge the hundreds of data requests to which Atmos has responded.

19 **Q. DID ATMOS ATTEMPT TO ASCERTAIN WHAT RECORDKEEPING STAFF**  
20 **BELIEVES IS REQUIRED BY THE RULE FOR DIFFERENT TYPES OF**  
21 **TRANSACTIONS?**

22 A. Yes, but Staff was unresponsive to Atmos' inquiry. Atmos posed a data request to Staff  
23 asking specifically what recordkeeping Staff believes the rules require for different types

1 of transactions, including both an intra-company journal entry and an affiliate invoice.  
2 Staff responded with two obvious observations - that the two transactions were "not  
3 entirely equivalent" and that the "rules regarding affiliate records would appear to apply  
4 to both." (Staff's Response to Atmos DR-14) Staff offered no further guidance to Atmos.  
5 If Staff maintains a belief about what specific recordkeeping is required by the rules,  
6 Staff has not been willing to share its understanding of the specific recordkeeping  
7 required with Atmos. In short, Atmos has been providing all the relevant information  
8 requested by Staff for going on three years now. Staff continues to claim that the  
9 information is not sufficient, while simultaneously refusing to let Atmos in on the  
10 information that Staff alleges is missing. Mr. Sommerer refers to a lack of "detailed  
11 contemporaneous AEM documentation" (Sommerer Rebuttal, p. 17, line 14) but when  
12 asked directly, cannot say what that information would be or show how Atmos has not  
13 provided the information required by the rules.

14 **Q. WHAT ABOUT STAFF'S CONTENTION THAT IT DID NOT HAVE**  
15 **SUFFICIENT INFORMATION REGARDING AEM'S OVERHEAD COSTS?**

16 A. Staff has testified that Atmos did not provide enough information about AEM's  
17 overheads in order for Staff to determine the net profits of AEM. As I previously pointed  
18 out in my rebuttal testimony, Staff specifically requested and received information about  
19 AEM's *gross* profits. It was not until *after rebuttal testimony was filed* that Atmos  
20 received a request for information regarding AEM's overhead, administrative and general  
21 costs. Not only did Staff request this information for the ACA period at issue in this  
22 case, *but also for the past ACA period that was already fully litigated in Case No. GR-*  
23 *2008-0364.*

**BID DESIGN INFLEXIBLE**

**Q. STAFF'S TESTIMONY SUGGESTS THAT BID INFLEXIBILITY LIMITED THE NUMBER OF BIDS IN THE HANNIBAL/BOWLING GREEN AREA. IS THIS TRUE?**

A. No. As we have related to Staff previously [Company's response to Staff DRs 084.1, 115 and 115.1 in this Case], in Atmos' discussions with its Panhandle Eastern Pipeline (PEPL) representative, the representative indicated that changing gas supply market conditions led some suppliers away from the Market Zone during the bidding timeframe for this ACA period.

**Q. WHY DIDN'T ATMOS SEEK TO INCREASE BIDDERS BY HOLDING FIELD ZONE CAPACITY?**

A. There are additional costs associated with holding Field Zone capacity. Atmos has provided Staff with an analysis showing the costs to move the capacity. (Company's response to Staff DR 010.1 in this Case) If Staff is willing to saddle Missouri customers with the additional costs of holding Field Zone capacity in order to presumably get a few more bids, then this should have been included in Staff's Recommendation to the Commission.

**Q. HOW DOES ATMOS HOLDING MARKET ZONE CAPACITY AFFECT MISSOURI CUSTOMERS?**

A. Atmos believes it is bringing the best value to Missouri customers by holding less costly Market Zone entitlements. As I explain later in my testimony, the number of bidders for Hannibal/Bowling Green has experienced a resurgence since the ACA period at issue in

1 this case. The RFP process for Hannibal/Bowling Green is robust and allows Atmos to  
2 provide safe, reliable, and affordable gas to our customers.

3 **Q. ON PAGE 2, LINES 21-22, MR. SOMMERER TESTIFIES THAT IT IS LIKELY**  
4 **THAT AEM WOULD HAVE WON THE HANNIBAL/BOWLING GREEN**  
5 **SERVICE IN PERPETUITY HAD IT CONTINUED TO BID. DO YOU AGREE?**

6 A. No. I have no way to predict what would have happened during future RFPs. Not only is  
7 Staff's assertion purely speculative, it is wholly irrelevant to a review of the gas costs  
8 during this period, and designed to plant and perpetuate the not so subtle suggestion that  
9 there was some sort of wrongdoing or collusion on behalf of Atmos and/or AEM.

10  
11 **PRIMARY VS. SECONDARY FIRM CAPACITY**

12 **Q. WHAT IS THE MAIN CONCERN THAT MR. SOMMERER RAISES WITH**  
13 **RESPECT TO THE REQUEST FOR PROPOSAL (RFP)?**

14 A. Staff is now testifying that the language of the RFP is ambiguous because it does not  
15 draw a distinction between primary and secondary firm service. (Sommerer Rebuttal, p.  
16 3, lines 1-3) I find it noteworthy that Mr. Sommerer has conceded in the past that Staff  
17 has had the opportunity to provide input into and help shape the RFP process that Atmos  
18 uses to select third party marketers, but has chosen to distance himself from his previous  
19 testimony in this case. In fact, Atmos has gone out of its way to accommodate Staff's  
20 requests in order to ensure that there is no doubt about the fairness or integrity of the RFP  
21 process.

22 **Q. WHAT TYPE OF SERVICE DOES ATMOS' RFP REQUIRE?**

1 A. The company does not specify “primary” service but rather “firm” service. The  
2 distinction of primary versus secondary has to do with the ranking of receipt and delivery  
3 points on the pipeline contracts. In a supply-only service, such as what Atmos used in the  
4 Hannibal/Bowling Green area during this ACA period, we utilize our own firm  
5 transportation contracts. The suppliers/marketers are not providing a transportation  
6 service to Atmos. Thus, the use of the phrase “primary” or “secondary” is not applicable  
7 to a supply-only RFP. The distinction the Company makes in its RFP is for Firm supply  
8 as opposed to Interruptible supply. When Atmos and the marketer contract for Firm  
9 supply, that means that the marketer cannot interrupt.

10 **Q. WHY DOES ATMOS ALLOW SUPPLIERS THE FLEXIBILITY TO USE**  
11 **SECONDARY FIRM “IN PATH” RECEIPT POINTS?**

12 A. The use of secondary firm “in path” receipt points is a safe and economical way to  
13 provide customers savings on gas costs while still maintaining firm, reliable supply. The  
14 supply from a secondary “in path” point is firm, not subject to interruption. These  
15 secondary “in path” points are rarely curtailed outside of a Force Majeure. If Panhandle  
16 were to call a curtailment on one of these points that Atmos was utilizing, we have the  
17 ability to move our receipts to a different point. The ability to move receipts is evidenced  
18 in the Company’s response to Staff DR 0009 in GR-2009-0417 when Panhandle called a  
19 Force Majeure event for the Haven 400 line. The Force Majeure limited the capacity at  
20 the Haven receipt point that the Company was utilizing. Atmos was able to arrange for  
21 its supply to be received at a different point, Princeton-Southern Star, which is further  
22 downstream.

1   **Q.    ON PAGE 8, LINES 16-17 OF HIS REBUTTAL, MR. SOMMERER TESTIFIES**  
2       **THAT AEM HAS NO OBLIGATION TO MOVE DELIVERY BACK TO THE**  
3       **PRIMARY RECEIPT POINT IN THE EVENT OF A SERVICE INTERRUPTION.**  
4       **IS THIS TRUE?**

5       A.    This is absolutely, unqualifiedly untrue. All of Atmos' Missouri suppliers  
6       including AEM have the contractual obligation to provide firm supply and to take  
7       reasonable actions to avoid pipeline imbalances. Further, Staff also testifies that Atmos  
8       provided "mixed statements" about the use of delivery points during discovery.  
9       (Sommerer Rebuttal, p.8 lines 3-8). To reach this conclusion, Staff mischaracterizes not  
10      only Atmos' responses but also the language of Staff's own data requests in order to  
11      fabricate "conflicting" responses. To be very clear, in Data Request No. 0010, Staff  
12      asked "If the LDC contracts for supply using pooling and/or secondary receipt and  
13      delivery points, please explain the priority of this supply verses supply delivered to  
14      primary points." Atmos responded that "Most of the Company's receipt points, and all of  
15      the delivery points, are primary points. In the occasions where secondary receipt points  
16      are used, the priority resembles that of primary points. If for any reason the secondary  
17      points were unavailable, the Company would revert to the primary points.

18      In Data Request No. 0127, Staff asked the Company to \*\*\*  
19      \_\_\_\_\_  
20      \_\_\_\_\_  
21      \_\_\_\_\_  
22      \_\_\_\_\_



1 \_\_\_\_\_

2 \_\_\_\_\_.”\*\*

3 Atmos’ *actual* response was that \*\*“(\_\_\_\_\_)

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_.”\*\* Staff didn’t ask

7 \*\*“(\_\_\_\_\_)”\*\* as Mr.

8 Sommerer testifies on page 8, lines 6-7 of his rebuttal. The language of Staff’s DR 0127,

9 like much of Staff’s other testimony, was based on a fundamental misunderstanding of

10 Ms. Buchanan’s testimony. In its response, Atmos corrected the misstatement and

11 pointed out that the second inquiry was not applicable in light of the correction.

12 \_\_\_\_\_

13 **Q. CAN PIPELINE CURTAILMENT ACTION OCCUR AT PRIMARY RECEIPT**

14 **POINTS?**

15 A. Yes. Curtailment actions occurred in December 2007, when Panhandle experienced the

16 rupture of the Haven 400 line, and more recently in August 2009 when Panhandle was

17 performing hydrostatic testing and pipe replacement on that line. In both instances,

18 Panhandle issued Force Majeure events and both primary and secondary in path receipts

19 were curtailed to some extent. The 2009 outage was explained to Staff in response to

20 Staff DR 0009 in GR-2009-0417 and the 2007 outage was presented by the Company in

21 testimony, data request responses and at the March 2011 Hearing in Case GR-2008-0364.

1 **Q. ON PAGE 7 OF MR. SOMMERER'S REBUTTAL TESTIMONY HE INDICATES**  
2 **THAT ATMOS' SECONDARY IN-PATH FIRM SERVICE IS SUBJECT TO**  
3 **INTERRUPTION. DO YOU AGREE WITH THIS STATEMENT?**

4 A. No. Atmos holds Firm pipeline capacity on Panhandle – none of our contracts are  
5 considered Interruptible, regardless of the receipt point. Staff may be confusing the word  
6 Interruption with the word Curtailment. All service levels, including primary firm, are  
7 subject to Curtailment per the pipelines Service Priority guidelines.

8 **Q. HAS THE PIPELINE MADE ANY CUTS TO ATMOS' SUPPLY BECAUSE IT**  
9 **UTILIZED A FIRM SECONDARY IN PATH RECEIPT POINT AS OPPOSED**  
10 **TO A FIRM PRIMARY POINT?**

11 A. No, the secondary in path receipts have not caused any curtailments on the Panhandle  
12 pipeline during the ACA period under review. Further, as Atmos has stated on numerous  
13 occasions, if Panhandle notifies the Company that it is curtailing a secondary in path  
14 point, Atmos will take appropriate action, as provided for in the pipeline notification and  
15 tariff. This can include moving the receipts to our primary point or to a different  
16 secondary in path point if that action will avoid the curtailment. We have flexibility in  
17 our contracts that allow Atmos to mitigate the effects of a pipeline curtailment so the  
18 customers receive firm reliable gas supply day in and day out.

19 **Q. DURING THE 2008-2009 ACA REVIEW PERIOD DID ATMOS' AFFILIATE**  
20 **SUPPLIER REQUEST TO INTERRUPT SUPPLY TO HANNIBAL / BOWLING**  
21 **GREEN?**

22 A. No, there were no affiliate requests to interrupt supply to Hannibal / Bowling Green. The  
23 affiliate provided Firm service. Outside of a pipeline Force Majeure and Curtailment, the

1 Suppliers must provide Atmos the supply that is nominated. There were some limited  
2 instances where clerical scheduling errors created nomination cuts. These were  
3 unintentional and explained to Staff in DR responses. There was no harm to customers  
4 either financially or operationally. There were no service disruptions to the customers as  
5 a result and the price impact was immaterial. By design, Atmos' storage accounts act as  
6 a balancing mechanism for the customers' requirements so that our service to customers  
7 is very reliable.

8 **Q. ON PAGE 7, LINE 6, MR. SOMMERER TESTIFIES THAT ATMOS DOES NOT**  
9 **EXPLAIN THE TERM "FIRM AND WARRANTED." SHOULD THIS BE**  
10 **CAUSE FOR THE COMMISSION'S CONCERN?**

11 A. No. It is disingenuous for Staff to suggest that suppliers did not understand the meaning  
12 of the term "firm and warranted" unless Staff simply misunderstands how gas marketers  
13 provide service to LDCs. This is especially true in the context of the full statement  
14 included in Section 5.4 of the RFP, noted in Mr. Sommerer's testimony at lines 4-5, that  
15 supply is to be "firm and warranted assuring that the natural gas supply services *will meet*  
16 *all contractual obligations without fail.*" (emphasis added) This is the plain meaning of  
17 firm and warranted in the context of the RFP. Mr. Sommerer speculates that suppliers  
18 might look to the FERC tariff instead of the plain meaning of the term. (Sommerer  
19 Rebuttal, p. 7, lines 8-9) This is a red herring designed to mislead the Commission into  
20 thinking that pipeline priority differences have something to do with the difference  
21 between Firm and Interruptible service as it relates to the agreement between the utility  
22 and its gas suppliers. They are simply unrelated.

1    **Q.    IS THE OPTION TO USE SECONDARY FIRM IN PATH DELIVERY POINTS**  
2    **AVAILABLE TO ALL BIDDERS?**

3    A.    Yes.    Attachment I to the Spring 2009 RFP states : *“Haven first of month (FOM) and*  
4    *swing receipts can be at Haven or other points between Haven and Atmos’ service area*  
5    *at UNCMO point (Hannibal MO) on Panhandle. If bidder elects FOM and swing*  
6    *receipts between Haven and Atmos’ service area, then bidder will be responsible for all*  
7    *applicable pipeline overrun charges. Field Zone bids in lieu of Haven Zone bids will not*  
8    *be accepted and considered non-conforming.”* A supplier familiar with the Panhandle  
9    pipeline would readily know and understand that receipts at Haven or other points  
10   between Haven and Atmos’ service area are going to be “in path” of our contract receipt  
11   and delivery points, and thus would be flowing on our Firm transportation contract.  
12   Receipts at Field Zone in lieu of Haven Zone are “out of path” and subject to  
13   Interruption, and clearly **not** accepted by Atmos. If a supplier is unfamiliar with the  
14   Panhandle pipeline and does not understand these basics, then they should not be bidding  
15   on our supply for Hannibal / Bowling Green.

16   **Q.    DOES THE FLEXIBILITY IN DELIVERY POINTS CREATE ANY AMBIGUITY**  
17   **ABOUT THE TYPE OF SERVICE REQUIRED?**

18   A.    No. In both the spring 2008 RFP and the spring 2009 RFP it is very clear that Atmos  
19   seeks Firm supply. The cover letters to both RFPs have the following subject line in  
20   **BOLD CAPITAL** letters: *“RE: Request for Proposal for Firm Gas Supply (Hannibal*  
21   *and Bowling Green, Missouri) on Panhandle Eastern Pipeline for April 20XX – March*  
22   *20XX.”* The first sentence in the body of each cover letters reads *“Atmos Energy*  
23   *Corporation is requesting proposals for firm gas supply requirements on Panhandle*

1 *Eastern Pipeline for a one year term effective April 1, 200X through March 31, 20XX.”*

2 Within the RFP documents for both years, there are no less than six occurrences where

3 Atmos states the Company is seeking Firm Supply.

- 4 1) Section **1.0 RFP Overview**: *“Atmos Energy Corporation (“Atmos”) is seeking proposals*  
5 *from qualified suppliers to provide firm and warranted natural gas commodity only*  
6 *requirements for its Missouri service areas.”*
- 7 2) Section **1.0 RFP Overview**: *“Essentially, Atmos is seeking firm, natural gas supply for*  
8 *daily flows up to its maximum firm capacity rights on Panhandle Eastern Pipeline split*  
9 *into first of month and swing components.”*
- 10 3) Section **5.2 Description of Proposal**: *“The response should present firm and warranted*  
11 *commodity sales based upon the pricing methodology described in section “5.3*  
12 *Pricing”.”*
- 13 4) Section **5.4 Reliability**: *“All gas supply is to be firm and warranted assuring that natural*  
14 *gas supply services will meet all contractual obligations without fail.”*
- 15 5) Attachment I: *“Atmos is seeking proposals from qualified suppliers to provide firm gas*  
16 *supply on Panhandle Eastern Pipeline, Field Zone and Market Zone as shown in the*  
17 *table below. All of this gas will flow on Atmos’ firm transportation agreements to our*  
18 *Hannibal, MO and Bowling Green, MO service areas.”*
- 19 6) Attachment I: *“We are seeking Firm supplies, including fuel, as follows: ...”*  
20

21 It is apparent in reading these RFP references, in fact crystal clear, that the Company’s  
22 RFP specifies the need for Firm supply. In not one instance does the Company infer that  
23 it will accept Interruptible supply.

24  
25 **Q. ARE BIDDERS ABLE TO SEEK CLARIFICATION IF THEY DO NOT**  
26 **UNDERSTAND THE TERMS OF THE RFP?**

27 **A.** Yes. The RFP document states in Section **2.0 RFP Communication** *“Any reasonable*  
28 *request, at Atmos’ sole discretion, for additional information not contained in this RFP is*  
29 *required in writing and will be provided to all parties receiving this RFP. The identity of*  
30 *the party requesting additional information will not be divulged. All requests for*

1        *additional information to be used in your analysis should be submitted in writing via e-*  
2        *mail to mike.walker@atmosenergy.com.”*

3        **Q.     HAS ANY BIDDER EVER TAKEN ADVANTAGE OF THE ABILITY TO SEEK**  
4        **CLARIFICATION OF THE RFP FROM ATMOS?**

5        A.     Yes. In the spring 2009 Supply RFP for Hannibal / Bowling Green, on February 26,  
6        2009, a potential supplier submitted the following question by email: “Will you accept  
7        the seller using IT transport to Haven?” Atmos replied by email to all parties on the RFP  
8        distribution list that “Atmos will only accept firm transportation to Haven.”

10       **Q.     IS THERE EVIDENCE THAT PERCEIVED AMBIGUITY OF THE RFP LED TO**  
11       **FEWER BIDDERS?**

12       A.     No. First, as evidenced above, there *is no ambiguity*. Mr. Sommerer focuses on a  
13       concern over a lack of bids in the Hannibal/Bowling Green area. This number of bids in  
14       the 2008 RFP is consistent, however, with the bid history for this area as shown in  
15       Attachment No. 2 to my Direct Testimony in this case. As explained to Staff in response  
16       to data requests (Company’s response to Staff DRs 084.1, 115 and 115.1 in this Case),  
17       the Company did notice a reduction in bids for the 2009 RFP and attributed that to the  
18       changing supply market conditions (per discussions with our Panhandle pipeline  
19       representative), and not to the ambiguity of the RFP.

20       **Q.     DO YOU BELIEVE THAT ANY SUPPLIER WAS ACTUALLY CONFUSED BY**  
21       **THE RFP?**

22       A.     No. I find this suggestion to be implausible. In my experience, some marketers will  
23       intentionally submit a non-conforming bid in the hopes that Atmos might agree to adjust

1 the terms of its RFP. Other marketers simply overlook the plain terms of the RFP. I also  
2 find it ironic that for one area, Staff criticizes Atmos' bid design as too inflexible,  
3 suggesting that this inflexibility limited the number conforming bidders. (Sommerer  
4 Rebuttal, p.4, lines 4-6) At the same time, Staff criticizes Atmos' RFP as open to  
5 interpretation, essentially claiming that too much flexibility in interpretation of the RFP  
6 also handicaps bidders. (Sommerer Rebuttal, p. 5, lines 18-21)  
7 It seems that Staff is suggesting that AEM alone is sophisticated enough to successfully  
8 navigate Atmos' inflexible yet ambiguous RFP. This suggestion is, of course, as  
9 ridiculous as it sounds.

10 **Q. HAS THE COMPANY EXPERIENCED A RESURGENCE OF BIDS FOR THE**  
11 **HANNIBAL / BOWLING GREEN AREA?**

12 A. Yes. In direct contradiction of Mr. Sommerer's rebuttal testimony at page 9, lines 17-19,  
13 Atmos has taken steps designed to increase the number of bidders and these steps  
14 *specifically include offering an alternative to the supply-only approach.* In response to  
15 Company and Staff concerns about declining bids for this area, the Company has offered  
16 the bidders the option to bid on the service as a supply-only transaction or as a bundled  
17 supply and Asset Management service. Also the Company now offers the flexibility of  
18 bidding the service as a 1 year, 2 year or 3 year contract. But most helpful has been the  
19 Company's development and implementation of its internet RFP website to make its  
20 RFPs available to an expansive list of hundreds of potential suppliers. Not only has  
21 Atmos been proactive, but Staff is aware of changes made to the RFP. The Company's  
22 response to Staff DR 115.1 (c) provides this information.

1 These actions, as well as the evolving supply market conditions, have resulted in a  
2 resurgence of bids for the Hannibal / Bowling Green RFP without sacrificing the savings  
3 that Atmos provides the customers through more affordable market area receipt points  
4 and less costly supply at firm "in path" secondary receipt points. The most recent RFP in  
5 this area resulted in six proposals from interested parties, five of which were considered  
6 conforming bids. The Hannibal / Bowling Green RFP process is robust and effective,  
7 allowing Atmos to provide safe, reliable and affordable gas to our customers.

8 **Q. HAS STAFF BEEN INFORMED OF THE NUMBER OF BIDS RESULTING**  
9 **FROM THE MOST RECENT RFP PROCESS?**

10 A. Yes. Staff should be aware of the resurgence in the number of bids as this information  
11 was provided in the Company's response to Staff Data Request 115.1(a) in this Case.

12 **STAFF TRAINING**

13 **Q. IS THERE ANY OTHER POINT IN STAFF'S REBUTTAL TESTIMONY THAT**  
14 **YOU'D LIKE TO ADDRESS?**

15 A. Yes. Although it is not directly related to the prudence of gas purchases, near the end of  
16 his rebuttal Mr. Sommerer seizes the opportunity to take one more swipe at Atmos by  
17 criticizing the lack of a formalized affiliate transaction training program. (Sommerer  
18 Rebuttal, pp. 16-17. Lines 22-10) Mr. Sommerer bolsters his criticism by relating a  
19 highly edited, only partially accurate version of Atmos' response to whether or not it had  
20 a formal training program regarding affiliate transactions.

21 As I mentioned earlier, the absence of certain information in no way reflects a lack of  
22 recordkeeping, especially not one resulting from the "lack" of a formal training program.

23 To be clear, Atmos' *complete and actual* response to DR-0125 was:



There are no documents responsive to this request. The typical affiliate rules, such as keeping separate records, not sharing information unavailable to other non-related parties, and not promoting the affiliate to customers, are known by the Gas Supply employees, easily understood and remembered. Formal training programs, training materials and training sessions pertaining to gas supply affiliate transaction guidelines are unnecessary. State specific requirements may be reviewed with the assistance of the Legal Department as needed. Both the Gas Supply Management and the Legal Department are readily accessible for consultation and review of affiliate transactions.

## CONCLUSION

**Q. PLEASE SUMMARIZE YOUR TESTIMONY FOR THE COMMISSION.**

A. The contracts subject of this docket were selected through an RFP process that has been scrutinized by Staff in Case No. GR-2008-0364. Yet, Staff continues to come up with new “faults” with the RFP process. Although Staff has been in a continuous state of discovery about these very contracts for approaching three full years now, Staff continues to maintain that Atmos has not yet provided the information that is necessary to properly conduct its review. This, in spite of the fact that there have been no discovery disputes in the current case and AEM has provided responses to Staff even though they are not a party to the docket. When asked what the required records would be, Staff sidestepped the question. Staff has literally had years to prove that Atmos has acted imprudently and has yet to provide evidence supporting this contention.

**Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

A. Yes.