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**OCT 7 2011**

**Missouri Public  
Service Commission**

*Exhibit No.:*

*Issue:*

*Affiliated Transaction*

*Witness:*

*David M. Sommerer*

*Sponsoring Party:*

*MoPSC Staff*

*Type of Exhibit:*

*Rebuttal Testimony*

*Case No.:*

*GR-2009-0417*

*Date Testimony Prepared:*

*July 7, 2011*

**MISSOURI PUBLIC SERVICE COMMISSION**

**UTILITY SERVICES DIVISION**

**REBUTTAL TESTIMONY**

**OF**

**DAVID M. SOMMERER**

**ATMOS ENERGY CORPORATION**

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

*Staff* Exhibit No. 17-NP  
Date 9-14-11 Reporter JL  
File No. GR-2009-0417

*Jefferson City, Missouri  
July, 2011*

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

**NP**

**LIST OF SCHEDULES ATTACHED TO  
REBUTTAL TESTIMONY OF  
DAVID M. SOMMERER**

- Schedule 1 – HC- Hannibal/Bowling Green bid dispersion
- Schedule 2 –Public – Tariff map of PEPL system
- Schedule 3 – HC – Excerpts of emails/letters on Hannibal/Bowling Green RFP
- Schedule 4 – Public – PEPL tariff excerpt regarding scheduling/curtailment priorities
- Schedule 5 – Public – Data Request No. 10
- Schedule 6 – HC – Data Request No. 127
- Schedule 7 – HC – April 2009 through March 2010 RFP information
- Schedule 8 – HC – Transaction confirmations between AEM and AEC
- Schedule 9 – HC – Transaction confirmation with unaffiliated bidder
- Schedule 10 – Public – Data Request No. 0125
- Schedule 11 – HC – AEM subpoena questions and responses excluding attachments



1           A.     No.   The Staff's adjustment related to the affiliated transaction in the  
2 Hannibal/Bowling Green and Butler service area is appropriate and reasonable.   The are  
3 several reasons why the costs related to the affiliated transaction should be adjusted.

4           First, the limited information provided by Atmos was not adequate for Staff to  
5 perform its prudence audit of the reasonableness of the fair market value/price of gas supplies  
6 Atmos purchased from its affiliate Atmos Energy Marketing (AEM).   The Company was only  
7 able to provide a limited amount of information regarding the costs incurred and allocated by  
8 its affiliate, AEM.   The spreadsheet provided by AEM was compiled after-the-fact, in some  
9 instances did not include all supply applicable to the business in question, and did not  
10 adequately document supplies that were not allocated to the affiliated transaction.   The  
11 Company failed to provide to Staff the complete cost methodology and cost allocations to and  
12 from the transaction as required by the Affiliate Rules.   Without this information, the Staff  
13 cannot perform a thorough review of the transactions.   Therefore, Staff cannot endorse the  
14 proposition that Atmos paid a fair market price to AEM for gas supplies that Atmos could  
15 have purchased for itself from the same third party suppliers in a competitive market that is  
16 available to both the LDC and its affiliate.

17           Second, the Company's bid design for the Hannibal/Bowling Green service area has  
18 proven to be inflexible.   Over the past few years, the RFP has attracted fewer conforming bid  
19 responses.   The RFP bid responses show unusually high differences between unaffiliated  
20 suppliers and AEM as shown in Schedule 1.   With such a \*\* \_\_\_\_\_ \*\*  
21 between the *conforming* affiliate and next closest unaffiliated bidder, it is likely that AEM  
22 would have won this service **in perpetuity** had AEM continued to bid.

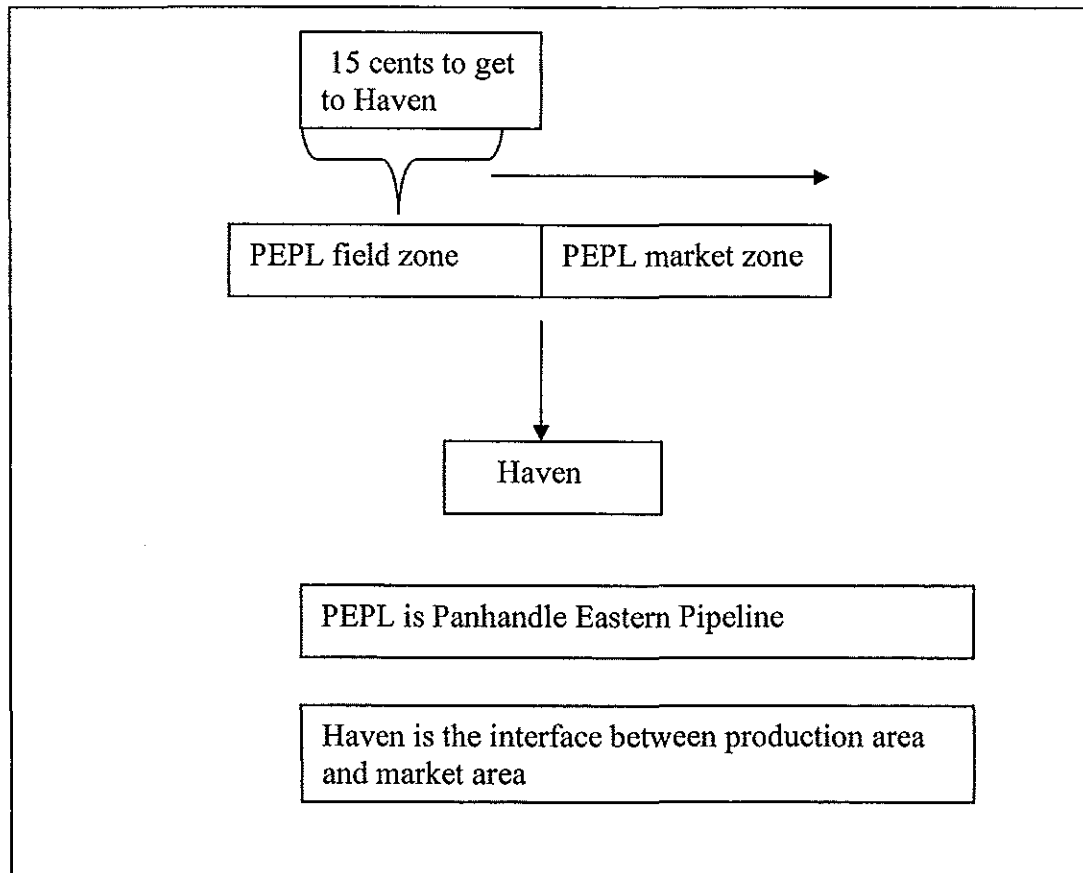
1 Third, Atmos does not \*\*

9 \*\*

10 Q. Ms. Buchanan notes on page 6, lines 7-11 of her direct testimony that Atmos  
11 holds long term contracts with various interstate pipelines for natural gas storage and  
12 transportation capacity to provide for the firm requirements of our Missouri service areas.  
13 Has Ms. Buchanan overlooked any aspects of pipeline transportation that can affect firm  
14 supply to the citygate?

15 A. Yes. Usually, interstate pipeline transportation is segmented into a field-zone  
16 area and a market-zone, as depicted in the following diagram. As the name implies,  
17 field-zone capacity is generally closer to the supply areas while market-zone capacity is closer  
18 to the ultimate delivery of the natural gas to consumers.

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22  
23 *continued on next page*



A significant Staff concern is that Atmos' lack of Panhandle Eastern Pipeline (PEPL) field-zone capacity for the Hannibal/Bowling Green system appears to be limiting the number of conforming bidders. PEPL is the interstate pipeline that serves the Hannibal/Bowling Green area. In Missouri, for the PEPL systems, the tendency is for Local Distribution Companies and Shippers to hold both market-zone and field-zone capacity on PEPL for delivery of storage and non-storage related supplies to the city-gate. A comparison between Butler and Hannibal contained in Ms. Buchanan's direct testimony (Attachment 2) clearly shows a \*\*

\*\* received and Butler has only about 1/4<sup>th</sup> the

1 number of customers of Hannibal/Bowling Green. The Butler system holds non-storage  
2 related winter-time field-zone capacity. \*\* \_\_\_\_\_

3 \_\_\_\_\_ \*\* is likely explained by the fact that more suppliers are capable of delivering  
4 into Atmos' firm field-zone capacity held for the Butler system. For the Butler system, the  
5 supplier would not have to hold field-zone PEPL capacity. The Hannibal system does not  
6 carry winter-time non-storage-related PEPL capacity. \*\* \_\_\_\_\_

7 \_\_\_\_\_  
8 \_\_\_\_\_ \*\* Attached is a more detailed map of  
9 the PEPL system for PEPL's tariffs. (Schedule 2)

10 Q. Are you suggesting that it is unreasonable, on its face, for an LDC not to hold  
11 field-zone capacity?

12 A. No. There are two points to consider. First, it is critical for the gas supplier to  
13 provide supplies of the highest priority to shippers to ensure reliability. As will be described  
14 in greater detail later in this testimony, \*\* \_\_\_\_\_

15 \_\_\_\_\_ \*\*  
16 This distinction is critical because it can be the difference whether gas shows up or not. On a  
17 pipeline system, secondary capacity is curtailed before primary firm capacity. Primary firm  
18 capacity is "scheduled" or allocated before secondary firm capacity. Secondary firm capacity,  
19 being of lesser priority, carries more risk of interruption and because of that it does not carry  
20 the premium price attached to primary firm capacity. Secondary firm capacity is of lesser  
21 value than primary firm capacity.

22 Second, when an LDC does not hold field-zone capacity, it must continually evaluate  
23 whether it has obtained a sufficient number of bids in response to its gas supply needs in the

1 market-zone. The loss of bidders, previously discussed in this testimony, should have made  
2 Atmos consider whether the lack of production area capacity has contributed to the reduced  
3 number of bids.

4 Q. How does the distinction between primary firm capacity and secondary firm  
5 capacity relate to Atmos' approach to Hannibal/Bowling Green procurement?

6 A. Atmos has not historically carried field-zone capacity for non-storage related  
7 wintertime deliveries for Hannibal/Bowling Green. Instead, Atmos has \*\* \_\_\_\_\_

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23 \_\_\_\_\_ \*\*



1       The initial perception gleaned from Atmos' RFP \*\* \_\_\_\_\_  
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12                                       \*\* attached as Schedule 4.

13       Q.     How does the pipeline's FERC tariff relate to Atmos' RFPs in this case?

14       A.     \*\* \_\_\_\_\_  
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3 Atmos has provided mixed statements in its Data Request responses. In one response,  
4 Atmos says that secondary deliveries are tolerated because the LDC can simply force the  
5 supplier to move back to the primary point in times of crisis (Data Request No. 0010,  
6 Schedule 5). \*\*

7 \*\* (Data Request No. 0127,  
8 Schedule 6).

9 Bid results have shown that when AEM has bid into the RFP, there is a wide bid  
10 dispersion among bidders and \*\*

Q. Are there additional factors that affect level of service other than the difference in priority of primary and secondary receipt points for the gas supply?

A. Yes. \*\*

Q. On page 6, lines 18-22 and page 7, lines 1-2, Ms. Buchanan discusses the concept of an asset management agreement (AMA). Is this discussion relevant to the Hannibal/Bowling Green area?

A. The AMA concept being discussed here relates to two very small Missouri service areas, Piedmont and Rich Hill/Hume. To my knowledge, Atmos has not attempted to develop a Hannibal/Bowling Green RFP to offer an alternative to their supply-only approach. The Hannibal/Bowling Green RFP approach continues to use an RFP that is “one size fits all”

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Again, Ms. Buchanan's Direct Testimony Attachment 2 supports the fact that the current rigid RFP yields few bidders out of a very large pool. It must be noted that Atmos' "list of RFP bids with rankings" contains non-conforming bidders. An Asset Management Agreement requires the winning bidder to optimize the supply and capacity of the LDC.

1 Q. Whose responsibility is it to optimize gas pricing in a full-requirements  
2 supply-only deal in Hannibal/Bowling Green?

3 A. In its Hannibal/Bowling Green RFP, Atmos has relinquished its right to  
4 optimize its nominations for allegedly more advantageous supply pricing. The two RFPs that  
5 cover this ACA period state, \*\* \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_

8 \_\_\_\_\_ \*\*

9 Q. On pages 8 through 11 of her direct testimony, Ms. Buchanan discusses the  
10 Company's RFP process and results. What is your assessment of this discussion?

11 A. Ms. Buchanan is correct in stating on page 8 that the Staff has provided input  
12 to the Company's RFP process. However, an RFP process itself does not necessarily provide  
13 the fair market value of a service. In this instance, \*\* \_\_\_\_\_  
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17 \_\_\_\_\_ \*\*

18 As discussed in my direct testimony pages 18 and 19, the RFP process merely selects  
19 the lowest bid among a pool of bidders using forecasted estimates of daily and FOM index  
20 prices and estimated volumes. Only an examination of the executed transaction confirmations  
21 and actual nominations can satisfy the requirements of the prudence audit because of the  
22 many subtle ways a willing LDC can \*\* \_\_\_\_\_  
23 \_\_\_\_\_

\*\*

1 Q. On pages 9 and 10 of the Company's direct testimony, Ms. Buchanan  
2 discusses the RFP results for the Hannibal/Bowling Green system for the ACA period ended  
3 August 2009. What clarifications can you point out from this discussion?

4 A. It should be emphasized that this ACA period is comprised of two RFP awards  
5 (excluding the propane air capacity RFP). \*\* \_\_\_\_\_

6 \_\_\_\_\_ \*\* From April 2009 to the end of the ACA period, an unaffiliated supplier  
7 received the award. The bid documents (RFP letter, bid responses, and evaluation) for the  
8 April 2008 to March 2009 RFP were provided in a staff filing in Case No. GR-2008-0364.  
9 Similar bid documents for the April 2009 through March 2010 RFP are provided  
10 as Schedule 7.

11 Q. Ms. Buchanan states on page 12, lines 22-23 of her direct testimony that  
12 "the commodity flows on our firm transportation contracts, so there are typically no  
13 reliability issues". Do you agree with that statement?

14 A. No, because it overlooks the impact of the pipeline's FERC tariff and how that  
15 tariff affects this affiliate transaction. Just because the gas flows on "firm transportation"  
16 does not mean that the supply service has the highest priority on the pipeline. The pipeline's  
17 tariff sets rules that govern scheduling and curtailment on the pipeline. The currently  
18 effective PEPL FERC Gas Tariff pages pertaining to scheduling of receipts, scheduling of  
19 deliveries, and curtailments and interruptions is attached as Schedule 4. PEPL schedules  
20 primary points first, followed by firm secondary "within path" points, and then "out of path  
21 firm secondary points". \*\* \_\_\_\_\_ \*\*

22 The two RFPs for the supply agreements in effect during this ACA include the statement,  
23 \*\* \_\_\_\_\_

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4 \_\_\_\_\_ \*\* AEM/AEC transaction confirmation is attached as  
5 Schedule 8. Atmos again uses terms stated in its RFP that are not included in its contract or  
6 confirmation agreement. These informal contract terms that were omitted in its contracts with  
7 AEM are not omitted in its subsequent contract with \*\* \_\_\_\_\_ \*\*  
8 attached as Schedule 9.

9 The statement that there are "typically" no reliability issues flows from  
10 the opportunity for the affiliate to monetize the higher risk associated with the use of  
11 \*\* \_\_\_\_\_ \*\* that create profit opportunities for shareholders at ratepayer expense.  
12 When there are reliability and performance issues, the affiliate may characterize them  
13 as beyond the supplier's control - even though it is well within the suppliers control to  
14 move gas to a primary receipt or delivery point to improve delivery. When the weather is  
15 very cold, the LDC requires more supply. Such increases in demand for flowing gas  
16 could force the pipeline to make curtailments based on its tariffed priorities. Atmos' use of a  
17 \*\* \_\_\_\_\_ \*\* increases the risk of cuts and interruption for gas supplies the LDC  
18 has assured are firm.

19 Q. On page 13, line 9, of Ms. Buchanan's direct testimony, she states "all the gas  
20 supply contracts require firm supply". Do you agree?

21 A. No. Some of the affiliate contracts omitted the \*\* \_\_\_\_\_ \*\*  
22 Also, I do not see the \*\* \_\_\_\_\_ \*\* memorialized in the contract. Even if

1 Atmos and its affiliate assume that the \*\* \_\_\_\_\_ \*\* means "firm", the supplier's  
2 choice of receipt/delivery point determines the priority of delivery service on the pipeline.

3 Q. On page 14, lines 1-12, Ms. Buchanan discusses the Staff's concern over  
4 \*\* \_\_\_\_\_ \*\* pricing *for its own* baseload agreements. What is your analysis  
5 of this discussion?

6 A. While it may well be that some suppliers use some daily gas to serve firm  
7 base-load type obligations, this is not the entire issue I discussed in my direct. When a  
8 supplier waits until each month arrives to line up supplies, the supplier assumes the risk that  
9 daily prices could be higher than the FOM prices that have been agreed to in the LDC  
10 supply agreement. This could create a significant loss for the supplier and may also  
11 jeopardize reliability. Supply reliability is exposed because the supplier must line up supplies  
12 during the month for the baseload commitments it made prior to the start of the month. In  
13 addition, the supplier must line up supplies for any swing nominations of the LDC. All this  
14 translates to potentially higher risks of service interruption for ratepayers. Unless there is an  
15 absolute insulation from that risk, which there is not in this case, the ratepayer ultimately  
16 bears that risk. \*\* \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
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20 \_\_\_\_\_ \*\* Because AEM is an  
21 affiliate not dealing at arms-length, AEM has both the opportunity and the incentive to  
22 mitigate price risk to the benefit of shareholders and the detriment of ratepayers. The fact that  
23 Atmos has stated informally through its RFP communications that it \*\* \_\_\_\_\_

1 \_\_\_\_\_  
2 \*\* Atmos has also stated in its RFP communication, \*\* \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \*\* Moreover, this sets the stage for  
6 the LDC and the affiliate supplier to use the excuse that any scheduling cut or curtailment on  
7 the pipeline is due to the pipeline's actions and therefore, not subject to the supplier's  
8 control when it was Atmos LDC that created the issue in the first place by allowing secondary  
9 receipt points.

10 Q. What evidence can you cite that Atmos or its affiliate might attribute cutting of  
11 supply to the actions of the interstate pipeline?

12 A. On page 13 of her direct testimony, Ms. Buchanan refers to a force majeure  
13 event on PEPL that was a major point of contention in the previous case (GR-2008-0364).

14 \*\* \_\_\_\_\_  
15 \_\_\_\_\_

16 \*\*

17 AEM's familiarity with AEC's business practices appear to have yielded an  
18 assessment that the LDC may hold its supplier to a firm obligation, but yet allow a

19 \*\* \_\_\_\_\_ \*\* The Staff has provided ample evidence of general  
20 supplier \*\* \_\_\_\_\_

21 \_\_\_\_\_  
22 \_\_\_\_\_

23 \*\* (Schedule 3).



1 Q. On page 14, lines 13 through 21, the statement is made that Staff is using some  
2 sort of "word play" in characterizing the service as "less than primary firm". What is your  
3 comment to that allegation?

4 A. As discussed previously, Atmos does not make the distinction between  
5 secondary and primary firm services. Even though Atmos argues (lines 19-21 of page 14)  
6 that secondary service might save some "mileage charges", Atmos ignores \*\* \_\_\_\_\_

7 \_\_\_\_\_ \*\*

8 Q. On page 16, lines 7-15, Ms. Buchanan states that suppliers provided reliable  
9 and economical gas supply and met the contractual obligations. What are your comments?

10 A. Based upon Atmos' testimony in this case and the previous ACA case  
11 (GR-2008-0364) I believe Atmos generally views that its supplier has performed its  
12 obligations if the customer in Hannibal, Bowling Green, or Butler, receives gas and does not  
13 experience a system outage. Atmos' gas storage can readily absorb most supplier-imposed  
14 cuts or nomination shortfalls. Atmos' reliance on its gas storage does not establish supplier  
15 reliability when the supplier fails to deliver.

16 Q. On page 16, lines 16-23 of Ms. Buchanan's direct, the general statement is  
17 made that the Company's gas supply costs were reasonable and prudent during this ACA  
18 period. Do you concur with that assessment?

19 A. No. The Staff's position is that Atmos may only recover the fair market value  
20 of the gas supply services rendered by its affiliate AEM. The primary indicator of fair market  
21 value is AEM's cost of gas supply. Because AEM has provided only limited information  
22 regarding those gas supplies, the Staff used the available information to estimate the fair  
23 market value of the service. The LDC's RFP is no indicator of fair market value in this case

1 because AEM was allowed to provide \*\* \_\_\_\_\_ \*\* delivery service to the LDC – a  
2 level of service that carries higher risk of interruption than an unaffiliated third party may  
3 rationally consider in its bid response.

4 Q. On page 17, lines 15-20, Ms. Buchanan makes the statement that Staff is  
5 proposing to, in effect, impute the gross profits of AEM to Atmos. Do you agree?

6 A. No. I believe this mischaracterizes the Staff's position. AEM has provided  
7 incomplete information about this transaction. The limited information that AEM did provide  
8 shows that the fair market value of the gas supply delivered to Atmos is substantially less than  
9 what it charged its regulated LDC.

10 The LDC's RFP is not robust in the Hannibal/Bowling Green area and the supply  
11 agreement fails to address issues such as 1) the LDC having ceded away its ability to  
12 \*\* \_\_\_\_\_ \*\* 2) what the service level is, 3) whether the receipt point is  
13 really \*\* \_\_\_\_\_ \*\* In the Butler area, the RFP  
14 provides a better indication of fair market value. However, the Staff still proposes an  
15 adjustment to AEM's fair market value because AEM did not provide the cost methodology  
16 and allocation records required by the Affiliate Rules.

17 Q. Ms. Buchanan states on pages 8-9 and pages 16-17 of her Direct that  
18 "in the event a state has specific guidelines for affiliate transactions, it is the Gas Supply  
19 Specialist's responsibility to know and follow those guidelines (Affiliated Procedures Section  
20 of Manual)". What are your comments with respect to Atmos putting responsibility for  
21 Affiliate Rules compliance on its Gas Supply Specialist?

22 A. The Staff asked in Data Request No. 0125 (attached as Schedule 10) whether  
23 or not the Company had any training, and related documentation, related to its affiliate


1 transaction guidelines. Atmos responded the training was unnecessary and that “there are no  
2 documents responsive to this request”. Thus, Atmos has passed the responsibility of  
3 understanding, applying, and monitoring the Missouri affiliate transaction rules to the lowest  
4 possible level – the employee that buys the gas. Atmos gives no training to its gas buyer on  
5 the Affiliate Rules. How is the Gas Supply Specialist supposed to ensure that AEM’s original  
6 records regarding gas supply allocations are kept? The Atmos’ business model puts sole  
7 responsibility for following the Affiliate Rules squarely on the shoulders of its Gas Supply  
8 Specialist and because of that, Staff can see why Atmos and AEM do not record or keep the  
9 cost methodology and cost allocation information that is required by the Affiliate Rules and  
10 necessary for Staff to complete its prudence review.

11 Q. Does Ms. Buchanan’s direct testimony (or any other AEC or AEM witness)  
12 address the records that AEM is required to keep pursuant to the affiliate transaction rule?

13 A. No, not that I could ascertain. As with in the previous case, Case No.  
14 GR-2008-0364, the Staff attempted to discover detailed contemporaneous AEM  
15 documentation that would shed additional light on the transactions. AEC’s general statement  
16 was that \*\* \_\_\_\_\_ \*\* See Schedule 11  
17 for staff’s subpoena questions and AEC/AEMs responses EXCERPTs only – attachments not  
18 included.

19 Q. Does this conclude your rebuttal testimony?

20 A. Yes, it does.

  
Notary Public

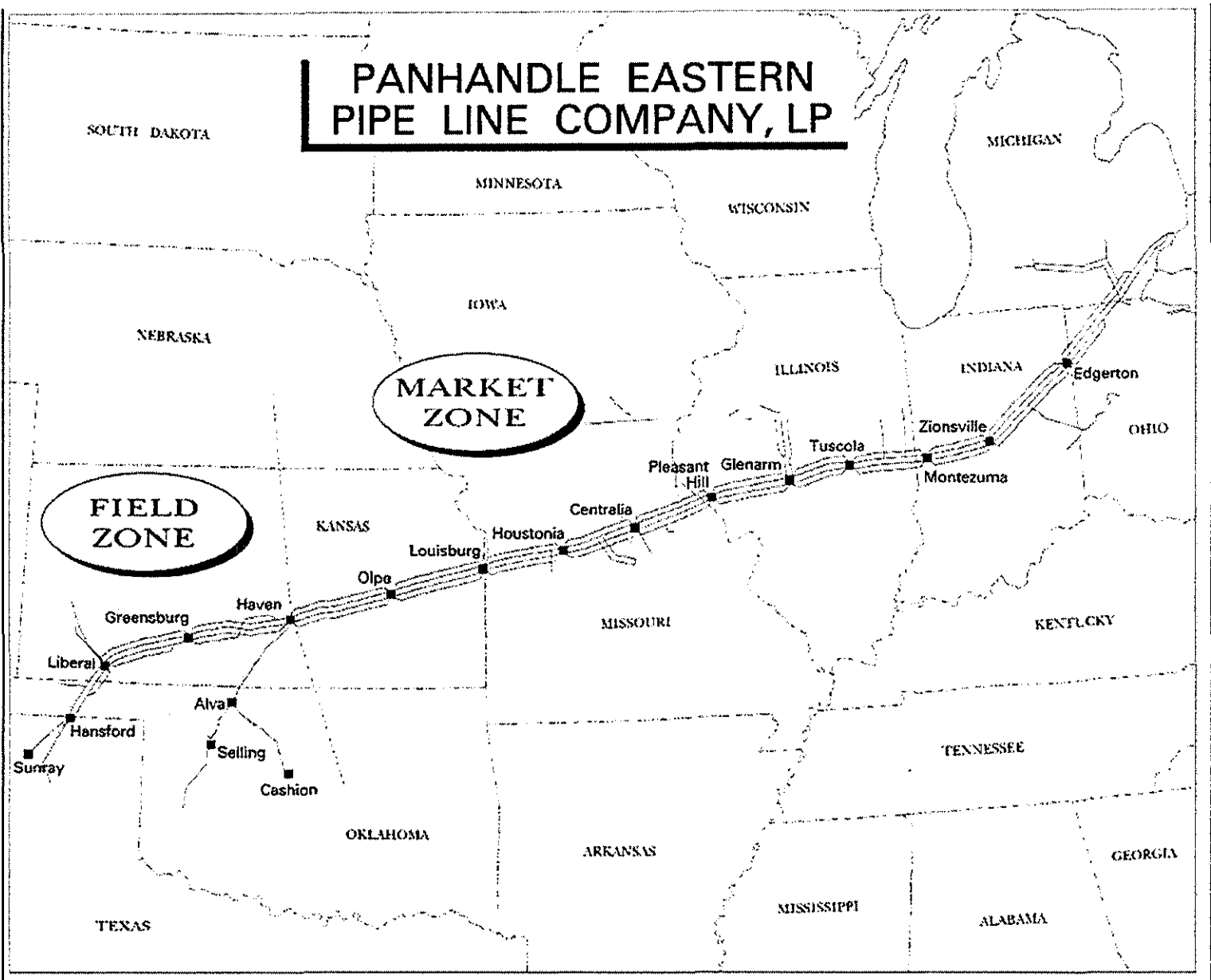
**SCHEDULE 1**

**HAS BEEN DEEMED**

**HIGHLY CONFIDENTIAL**

**IN ITS ENTIRETY**

System Map



**SCHEDULE 3**

**HAS BEEN DEEMED**

**HIGHLY CONFIDENTIAL**

**IN ITS ENTIRETY**

start of the Day. Parties may agree upon one of the following allocation methodologies: ranked, pro rata, percentage, swing and operator provided value. In the event the parties cannot agree on an allocation methodology, pro rata based on confirmed nominations will be used as the default method. The party responsible for custody transfer (the party performing the measurement function) must provide the allocation. Panhandle will accept such allocation if operationally or administratively feasible.

- (b) Changes to the daily allocation methodology may be made during the Month. Such changes must be submitted before the start of the Day. No retroactive reallocations of any transactions shall be permitted.
- (c) If the daily allocation methodology at a Point of Delivery identifies a Service Agreement, other than the meter holder's Service Agreement to be allocated the last Quantities through the meter, the Shipper whose Service Agreement has been identified must agree to the allocation methodology before it may become effective. Quantities delivered under Rate Schedule GDS must be allocated as the last Quantities through the meter.

- 8.6 Shipper may change the person(s) designated in the service rights request form to provide the nomination information set forth in this section to Panhandle. Such change shall be effective immediately upon receipt by Panhandle of Shipper's written notification. If Shipper designates another person to provide this information, Panhandle shall be entitled to rely on the nominations provided by Shipper's prior designee until such nominations are changed in accordance with this Section 8.
- 8.7 Nominations shall also specify such additional information which may be needed for Panhandle to accept Commission approved or permitted standard data elements necessary to perform service.
- 8.8 Quantities of Gas nominated for Transportation or Storage by Shippers pursuant to Section 8.3 shall be scheduled by Panhandle for receipt and delivery in the following order:

(a) Scheduling of Receipts

- (1) Firm service from primary Point(s) of Receipt, adjusted for Fuel Reimbursement.
- (2) Firm service from secondary Point(s) of Receipt within the Primary Path, adjusted for Fuel Reimbursement, beginning with service charged the applicable Maximum Rate followed by firm service from secondary Point(s) of Receipt within the Primary Path charged a rate less than the applicable Maximum Rate in sequence starting with the rate most proximate to the Maximum Rate (expressed as a percentage of the



Maximum Rate). Within each category, Quantities of Gas will be scheduled pro-rata.

- (3) Firm service from secondary Point(s) of Receipt outside the Primary Path, adjusted for Fuel Reimbursement, beginning with service charged the applicable Maximum Rate followed by firm service from secondary Point(s) of Receipt outside the Primary Path charged a rate less than the applicable Maximum Rate in sequence starting with the rate most proximate to the Maximum Rate (expressed as a percentage of the Maximum Rate). Within each category, Quantities of Gas will be scheduled pro-rata.
- (4) Interruptible service from Point(s) of Receipt, beginning with interruptible service charged the applicable Maximum Rate, followed by interruptible service from Point(s) of Receipt charged a rate less than the applicable Maximum Rate in sequence starting with the rate most proximate to the Maximum Rate (expressed as a percentage of the Maximum Rate). Interruptible service provided under Rate Schedule EIT will be scheduled before interruptible service provided under Rate Schedule IT charged a rate equally proximate to the Maximum Rate (expressed as a percentage of the Maximum Rate). Authorized Quantities in excess of the MDCQ shall be scheduled as interruptible. Within each category of interruptible service, Transportation shall be scheduled in sequence, starting with the service with the earliest request date.
- (5) Gas Parking Service
- (6) Within each service category provided in (1) through (4) above, a Shipper may, through electronic data interchange, provide a ranking of Individual Points of Receipt within a Shipper's Service Agreement in the event the entirety of the Shipper nomination cannot be scheduled.

(b) Scheduling of Deliveries

- (1) Firm service to primary Point(s) of Delivery.
- (2) Firm service to secondary Point(s) of Delivery within the Primary Path beginning with service charged the applicable Maximum Rate followed by firm service to secondary Point(s) of Delivery within the Primary Path charged a rate less than the applicable Maximum Rate in sequence starting with the rate most proximate to the Maximum Rate (expressed as a percentage of the Maximum Rate). Within each category, Quantities of Gas will be scheduled pro-rata.

- (3) Firm Service to secondary Point(s) of Delivery outside the Primary Path beginning with service charged the applicable Maximum Rate followed by firm service to secondary Point(s) of Delivery outside the Primary Path charged a rate less than the applicable Maximum Rate in sequence starting with the rate most proximate to the Maximum Rate (expressed as a percentage of the Maximum Rate). Within each category, Quantities of Gas will be scheduled pro-rata.
  - (4) Interruptible service to Point(s) of Delivery beginning with interruptible service charged the applicable Maximum Rate, followed by interruptible service charged a rate less than the applicable Maximum Rate in sequence starting with the rate most proximate to the Maximum Rate (expressed as a percentage of the Maximum Rate). Interruptible service provided under Rate Schedule EIT shall be scheduled before interruptible service provided under Rate Schedule IT charged a rate equally proximate to the maximum rate (expressed as a percentage of the maximum rate). Authorized Quantities in excess of the MDCQ shall be scheduled as interruptible. Within each category of interruptible service, service shall be scheduled in sequence starting with the service with the earliest request date.
  - (5) Gas Parking Service.
  - (6) Within each service category provided in (1) through (4) above, a Shipper may, through electronic data interchange, provide a ranking of individual Points of Delivery within a Shipper's Service Agreement in the event the entirety of the Shipper nomination cannot be scheduled.
- (c) If Panhandle is unable to schedule all Quantities nominated because of a point of constraint, other than at a Point of Receipt or Delivery, Panhandle will schedule Gas through such point of constraint in accordance with the location of the point of constraint. If the point of constraint is located at or west of Panhandle's Haven, Kansas Compressor Station, Panhandle will schedule firm service from primary Point(s) of Receipt and from secondary Point(s) of Receipt equally if the point of constraint is within the Primary Path of the Transportation service using the secondary Point(s) of Receipt, and service from other Point(s) of Receipt in the order specified in Section 8.8(a)(3) through (5). If the point of constraint is located east of Panhandle's Haven, Kansas Compressor Station, Panhandle will schedule firm service from primary Point(s) of Delivery and from secondary Point(s) of Delivery equally if the point of constraint is within the Primary Path of the Transportation service using the secondary Point(s) of Delivery, and service to other Point(s) of Delivery in the order specified in Section 8.8(b)(3) through (5).

- (d) Subject to Section 8.2(b), scheduled service only can be displaced by a shipper moving to its primary point(s) of receipt or delivery or by an event of Force Majeure.

8.9 Section 9.7 describes scheduling provisions during curtailment.

## GENERAL TERMS AND CONDITIONS

### 9. CURTAILMENT AND INTERRUPTION

- 9.1 Panhandle shall have the unqualified right to interrupt Transportation Services or Storage Services or Gas Parking Service or all such services at any time under Panhandle's interruptible Rate Schedules to provide service under Panhandle's firm Rate Schedules. Gas Parking Service will be interrupted first and then interruptible services shall be interrupted in sequence, starting with interruptible service charged the rate least proximate to the applicable maximum rate. Within each rate category of interruptible service, service shall be interrupted in sequence, starting with the service most recently requested and, if necessary, pro-rata by request date.
- 9.2 Panhandle shall have the right to curtail or discontinue Transportation Services or Storage Services or Gas Parking Service or all such services, in whole or in part on all or a portion of its system at any time for reasons of Force Majeure or when in Panhandle's sole judgment, capacity or operating conditions so require or it is desirable or necessary to make modifications, repairs or operating changes to its system. Panhandle shall provide Shipper such notice of the curtailment as is reasonable under the circumstances.
- 9.3 In the event of curtailment pursuant to Section 9.2 above, Gas Parking Service shall be curtailed first and then interruptible services shall be curtailed in sequence, starting with interruptible service charged the rate least proximate to the applicable Maximum Rate. Within each rate category of interruptible service, service shall be curtailed in sequence, starting with the service most recently requested and, if necessary, pro-rata by request date. For any condition requiring curtailment at or west of Panhandle's Haven, Kansas Compressor Station, Panhandle shall curtail firm services in the following order (1) service from secondary Point(s) of Receipt outside the Primary Path, (2) service from secondary Point(s) of Receipt within the Primary Path and (3) service from Primary Point(s) of Receipt. For any condition requiring curtailment east of Panhandle's Haven, Kansas Compressor Station, Panhandle shall curtail firm services in the following order (1) service from secondary Point(s) of Delivery outside the Primary Path, (2) service from secondary Point(s) of Delivery within the Primary Path and (3) service from Primary Point(s) of Delivery. Within each category of firm service curtailment shall be on a pro-rata basis based on scheduled Quantities of Gas regardless of rates or request date.
- 9.4 When in Panhandle's judgment Panhandle will be unable to satisfy all scheduled deliveries on any portion of its system due to the failure of Shippers to deliver or cause to be delivered scheduled receipts, Panhandle may reduce, in whole or in part, deliveries to Shippers with receipts scheduled on any portion of Panhandle's system showing deficient receipts, in the order specified in Section 9.3 hereof, subject to the following conditions:

- (a) Notice, pursuant to Section 9.6 hereof, shall be given to the affected Shippers that deliveries must be reduced within a time that is reasonable under the then existing conditions.
- (b) Shippers who are able to confirm their receipts to Panhandle within the time set out in such notice shall be permitted to maintain their service. Confirmation shall mean that Panhandle is able, in good faith, to determine that the Shipper's Natural Gas is being received, or Shipper has provided a notarized affidavit by an officer or representative empowered to bind Shipper that, based on personal knowledge formed after diligent investigation, the scheduled quantities (or stated lesser quantities) are being delivered to Panhandle at the Point(s) of Receipt nominated by Shipper for the applicable Service Agreement(s).
- (c) If Shipper is unable to provide confirmation within the time set out in the notice, deliveries to Shipper shall be resumed when such confirmation is provided or when the curtailment ceases.
- (d) If Shipper's affidavit is in fact false, then in addition to any remedies available to Panhandle at law, Shipper shall be deemed in violation of Panhandle's curtailment order and the provisions of Section 9.5 shall apply.

9.5 Curtailment Compliance

- (a) Without regard to any other remedy provided by law or by the provisions hereof, Panhandle shall be entitled to seek an order from the Commission or any other appropriate tribunal requiring compliance with curtailment or interruption ordered by Panhandle in compliance with this Section 9 or any directive from any governmental authority having jurisdiction in the premises.
- (b) All volumes received and/or taken in violation of Panhandle's curtailment or interruption orders shall constitute unauthorized receipts or deliveries of Gas for which a charge of \$10.00 per Dt. or two times the Mid-Continent Spot Price calculated in accordance with Section 12.11(c), whichever is greater, shall be assessed in addition to any other applicable rate, charge or penalty. Such charge shall be applicable to all such unauthorized receipts and deliveries following notification of curtailment or interruption pursuant to Section 9.6, below, which may be given by telephone, confirmed by facsimile transmission or any other reasonable means.

9.6 Situation Reports, Notices and Indemnification

- (a) Panhandle shall provide Shipper with notice of curtailment or interruption at a time and in a manner that is reasonable under then existing conditions, and shall in any event confirm in writing or by facsimile transmission the notice given if originally provided telephonically. Each Shipper and point operator shall designate one or more persons for Panhandle to contact on operational matters on a 24-hour a day, 365 days a year basis. Telephone and facsimile numbers as well as e-mail address must be provided for such person or persons. If Panhandle is unable to contact any Shipper or point operator because that Shipper's or point operator's contact person(s) is unavailable, such Shipper or point operator shall be responsible for any consequences arising from such failure of communications.
- (b) Shipper shall have the responsibility to inform its end-users, suppliers, other transporters and all others involved in the transaction, as to any curtailment or interruption.
- (c) Shipper shall indemnify Panhandle against and hold Panhandle harmless from any and all damages, claims, suits, actions or proceedings whatsoever threatened or initiated as a result of any curtailment or interruption invoked by Panhandle; which shall include any curtailment or interruptions described in any part of this Section 9. Shipper shall not be required to indemnify Panhandle as stated above to the extent that the curtailment or interruption is a result of Panhandle's negligence, bad faith, fault or willful misconduct.

9.7 Scheduling During Curtailment

During curtailment, the scheduling provisions of Section 8.8(a) and (b) shall apply when the point of constraint is at a Point of Receipt or Delivery. When the constraint is located at other than a Point of Receipt or Delivery, the scheduling provisions of Section 8.8(c) shall apply.

**Missouri Public Service Commission/ Data Request**  
**Company Name Atmos Energy Corporation-Investor (Gas)**  
**Case/Tracking No.: GR-2009-0417**

Data Request No. 0010  
Company Name Atmos Energy Corporation-Investor(Gas)  
Case/Tracking No. GR-2009-0417  
Date Requested 09/21/2009  
Issue Expense - Operations - Gas Supply Planning/Reliability  
Requested From Rate Administration  
Requested By Derick Miles  
Brief Description Supply Reliability

Description Regarding the LDC's supply plans: (a) Please provide the LDCs analysis of the reliability of its supply for the ACA period and any actions the LDC has or will take for subsequent ACA periods to address supply reliability. (b) If the LDC contracts for supply using pooling and/or secondary receipt and delivery points, please explain the priority of this supply verses supply delivered to primary points. (c) Were any pipeline Operational Flow Orders issued for this ACA period that impacted the LDCs flowing supply? If yes, provide a copy of the Operational Flow Order, an explanation of how the Operational Flow Order impacted the LDC and the actions taken by the LDC.

Due Date: 10/12/2009

Response:

- (a) Please refer to DR 9 regarding supplier/pipeline supply. The Company's suppliers for this ACA period have served the Missouri areas several years without fail.
- (b) Most of the Company's receipt points, and all of the delivery points, are primary points. In the occasions where secondary receipt points are used, the priority resembles that of primary points. If for any reason the secondary points were unavailable, the Company would revert to the primary points.
- (c) There were not any Operational Flow Orders issued during this ACA period that impacted the LDC's flowing supply.

The attached information provided to Missouri Public Service Commission Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the Missouri Public Service Commission Staff if, during the pendency of Case No. GR-2009-0417 before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information.

If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the Atmos Energy Corporation-Investor(Gas) office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following

information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to Atmos Energy Corporation-Investor(Gas) and its employees, contractors, agents or others employed by or acting in its behalf.

Security Public  
Rationale NA

Responded by: M. Walker



**SCHEDULES 6 through 9**

**HAVE BEEN DEEMED**

**HIGHLY CONFIDENTIAL**

**IN THEIR ENTIRETY**

**Missouri Public Service Commission/ Data Request**  
**Company Name Atmos Energy Corporation-Investor (Gas)**  
**Case/Tracking No.: GR-2009-0417**

Data Request No.	0125
Company Name	Atmos Energy Corporation-Investor(Gas)
Case/Tracking No.	GR-2009-0417
Date Requested	6/9/2011
Issue	General Information and Miscellaneous - Company Information
Requested From	Rate Administration
Requested By	Dave Sommerer
Brief Description	affiliate rule training

Description On page 9, lines 1- 4, of Ms. Buchanan's direct testimony in Case No. GR-2009-0417, it is stated that "in the event a state has specific guidelines for affiliate transactions, it is the Gas Supply Specialist's responsibility to know and follow guidelines. (Affiliate Procedures Section of Manual). With regard to training the gas supply specialist regarding affiliate transaction guidelines, please provide: A copy of all training materials used to train the gas supply specialist. A copy of all handouts provides to the gas supply specialist. The date that such training session(s) occurred that would have pertained to the ACA period in Case No. GR-2009-0417, whether provided during the period and/or prior to the ACA period. The names, titles, and qualifications of the persons providing the training. The names and titles of the gas supply specialists being trained, including the date(s) each attended the training session(s)

Due Date: 6/29/2011

**Response: .**

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.

The attached information provided to Missouri Public Service Commission Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the Missouri Public Service Commission Staff if, during the pendency of Case No. GR-2009-0417 before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information.

If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the Atmos Energy Corporation-Investor(Gas) office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or

data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to Atmos Energy Corporation-Investor(Gas) and its employees, contractors, agents or others employed by or acting in its behalf.

Security Public  
Rationale NA

Responded by: B.Buchanan

**SCHEDULE 11**

**HAS BEEN DEEMED**

**HIGHLY CONFIDENTIAL**

**IN ITS ENTIRETY**