

In the Matter of Atmos Energy)
Corporation's 2010-2011 Purchased Gas) Case No. GR-2011-0161
Adjustment and Actual Cost Adjustment)

COMES NOW Atmos Energy Corporation ("Atmos" or "Company"), by and through its attorneys, pursuant to Missouri Public Service Commission ("Commission") Rules 4 CSR 240-3.015 and 240-2.080(16) and requests that the Commission grant it a waiver from the Atmos tariff provisions on P.S.C. Mo. No. 2, Sheet Nos. 40-43 to allow the discontinuance of the ACA factor of the SEMO District at this time, even though the Company has already revised its ACA factor during the last twelve months. In support of this Motion, Atmos respectfully states:

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

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

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

3. Atmos may have pending actions against it involving customer service or rates having occurred within three (3) years from the date of this Motion in certain of the jurisdictions in which it provides service, but none in Missouri except as noted in the footnote below.¹ Atmos has no annual report or assessment fees that are overdue.

4. Simultaneously with the filing of this Motion, Atmos is filing a revised tariff sheet which is designed to discontinue Atmos' Actual Cost Adjustment ("ACA") factor for the SEMO District. The tariff has an issue date of March 16, 2011, and an effective date of April 1, 2011. Since Atmos has already filed an ACA factor during the last twelve months, it may be necessary for the Company to obtain a waiver to allow it to file another ACA factor for this district during the same twelve month period. Atmos' tariffs also provide that such proposed changes should be filed with effective dates that allow the Commission Staff ten (10) business days to review the tariffs.

5. At this time, the Company believes that the ACA balance for the SEMO District will be in an under-recovered state by the end of April 2011. The Company must file a tariff with an effective date of April 1, 2011 to begin billing the new rates at the beginning of May. This will ensure that all service taken prior to the effective date will be billed at the rate that was in effect in that month. As a result, it is now appropriate to discontinue this ACA factor to become effective on April 1, 2011. Accordingly, Atmos respectfully submits that good cause

¹ Atmos was recently advised that a consumer complaint had been filed with the Missouri Attorney General's Office, and Atmos is responding to said complaint.

exists for granting the relief requested herein. No other public utility will be affected by such waiver.

6. Most recently, the Commission issued its *Order Approving Revised ACA Factor and Granting Waiver of Tariff Provisions* in this captioned proceeding on January 26, 2011, effective February 1, 2011. Previously, the Commission granted similar waivers to allow the elimination of the separate Old Butler District, Kirksville, and Neelyville ACA factors when these factors were nearing a zero balance. See *Order Approving Revised ACA Factor And Granting Waiver Of Tariff Provisions*, Case No. GR-2008-0364 (February 25, 2009); *Order Approving Revised ACA Factor, Granting Waiver Of Tariff Provisions, And Approving PGA Changes*, Case No. GR-2008-0364 (April 29, 2009); *Order Approving Revised ACA Factors And Granting Waiver Of Tariff Provisions*, Case No. GR-2009-0417 (July 29, 2009). See also *Order Approving Revised ACA Factor and Granting Waiver of Tariff Provisions*, Case No. GR-2009-0417 (September 30, 2009)

7. In order that the tariff may become effective as soon as possible to reflect Atmos' discontinuance of the ACA factor for the SEMO District, Atmos respectfully requests that the Commission issue its Order Approving Tariff and allow the tariff to go into effect on April 1, 2011, and grant it a waiver from any tariff provisions that would otherwise limit the filing of another ACA factor for this district at this time. This will permit Atmos to implement the change in its ACA factor in an orderly fashion beginning with its May billing cycles.

8. Pursuant to 4 CSR 240-2.080(16), the Company requests that the Order Approving Tariff be effective no later than April 1, 2011. In addition, since the ACA balance will be near zero or in an under-recovered state as stated in Paragraph 5, expedited approval of

the revised tariff sheet is requested. Delay in the approval will cause a greater under-recovery of gas costs for this district. This pleading is also being filed as soon as it could have been once it became apparent that the ACA balance will be near zero or an under-recovered balance at the end of April 2011.

9. While it does not appear that Atmos' PGA/ACA-related filings are the type of case intended to be covered by Commission Rule 4 CSR 240-4.020(2), Atmos previously filed its Notice of Intended Case Filing and Application for Waiver in this proceeding on December 2, 2010.

WHEREFORE, Atmos Energy Corporation respectfully requests that the Commission, on an expedited basis, authorize its tariff to become effective on April 1, 2011, and grant it a waiver from any tariff provisions that might not allow for the change of the ACA balances at this time.

Respectfully submitted,

/s/ Larry W. Dority

James M. Fischer MBN 27543

E-mail: jfischerpc@aol.com

Larry W. Dority MBN 25617

E-mail: lawdority@sprintmail.com

FISCHER & DORITY, P.C.

101 Madison Street, Suite 400

Jefferson City, Missouri 65101

Telephone: (573) 636-6758

Facsimile: (573) 636-0383

Attorneys for Atmos Energy Corporation

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed, mailed or hand-delivered this 16th day of March, 2011, to:

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

Public Counsel
Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102

/s/ Larry W. Dority

Larry W. Dority