

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

In the Matter of the Application of Atmos     )  
Energy Corporation for Authority to Sell     )  
Part of its Works or System Located at the     ) Case No. GO-2011-\_\_\_\_\_  
Hannibal, Missouri Propane Air Plant.     )

**APPLICATION  
AND  
MOTION FOR EXPEDITED TREATMENT AND WAIVER**

**COMES NOW** Atmos Energy Corporation ("Atmos" or "Company"), and for its Application and Motion for Expedited Treatment and Waiver pursuant to Section 393.190.1, RSMo; 4 CSR 240-2.060; 4 CSR 240-3.210; 4 CSR 240-4.020(2) and 240-2.080(16), respectfully states to the Missouri Public Service Commission ("Commission") as follows:

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

2. A certified copy of Atmos' certificate of authority to do business as a foreign corporation in Missouri was filed with the Commission in Case No. GR-2006-0387, 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.<sup>1</sup>

Atmos has no annual report or assessment fees that are overdue.

4. Communications in regard to this Application should be addressed to:

Mark A. Martin  
Vice-President of Rates & Regulatory Affairs  
Atmos Energy Corporation  
3275 Highland Pointe Drive  
Owensboro, KY 42303

Douglas C. Walther  
Associate General Counsel  
Atmos Energy Corporation  
5430 LBJ Freeway  
Dallas, TX 75240

James M. Fischer  
Larry W. DORITY  
FISCHER & DORITY, P.C.  
101 Madison, Suite 400  
Jefferson City, MO 65101

5. The Propane Air Plant facility was designed and constructed to be a peak shaving plant and to mimic traditional storage with injections during the summer months and withdrawals during the winter months. At one point, the Company had several similar facilities within its footprint, but the Hannibal, Missouri facility was the last one in operation. The facility has experienced numerous maintenance issues over the years and the Company has exhausted all reasonable measures to keep the facility operational. The most intensive damage was due to a lightning strike which rendered the facility unsafe. As a result of the damage and additional

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<sup>1</sup> Atmos was recently advised that a consumer complaint had been filed with the Missouri Attorney General's Office, and Atmos is preparing its response to said complaint.

repair/replacements required for certain equipment and systems necessary for safe operation, and the existence of alternative supply resources not previously available, it is no longer economically efficient or necessary for said facility to be utilized by the Company, and therefore the facility is no longer in operation. Accordingly, the Company has entered into a Bill of Sale and Agreement (“Agreement”) to sell the propane storage tanks and related equipment at the peak shaving plant, a copy of which is attached hereto as Appendix A Highly Confidential and is incorporated herein by reference. The facilities and equipment to be sold are more particularly described in the Agreement; generally, however, the related equipment to the propane system includes pumps, compressors, vaporizers and generator. The related building(s) and land are not included in the Agreement.

6. The verification that accompanies this Application confirms that Company possesses the proper authority regarding the Agreement and proposed action.

7. The proposed transaction is not detrimental to the public interest. For the above-stated reasons, it is no longer economically efficient or necessary for said facility to be utilized by the Company, and the facility is no longer in operation. Alternative pipeline capacity is now available to the Company that will be more economically efficient for supplying safe and adequate natural gas service to its customers.

8. The purchaser is not subject to the jurisdiction of the Commission, nor will it be subject to the Commission’s jurisdiction after the sale.

9. Company states that the proposed transaction will have little, if any, impact on the tax revenues of the political subdivisions in which any of the structures, facilities and equipment involved are located.

### Motion for Expedited Treatment

10. The Company and purchaser desire to finalize this transaction as soon as possible and, pursuant to 4 CSR 240-2.080(16), the Company respectfully seeks expedited treatment of this matter and requests that the Commission act by April 6, 2011, or as soon as possible thereafter. The Company is providing additional supporting information to the Commission Staff in conjunction with the filing of this Application. This pleading is being filed as soon as it could have been. The parties wish to dismantle and remove the facilities and equipment as soon as possible, which benefit will accrue from the Commission acting by the date desired. Further, there will be no negative effect on the Company's customers or the general public if the Commission acts by the date desired by the parties.

### Motion for Waiver

11. Company does not anticipate, nor should it anticipate, that this matter will be a contested case. This Commission has held that an application regarding a transfer of assets pursuant to Section 393.190, RSMo is not a contested case.

Moreover, this is not a contested case pursuant to 536.010(2) because it does not involve a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be **determined after hearing**. (Emphasis added). Neither Section 393.190, nor Section 393.106, nor any other provision of law requires a hearing be held for these determinations. *In the Matter of the Application of The Empire District Electric Company for Authority to Sell and Transfer Part of its Works or System to the City of Monett, Missouri*, Case No. EO-2009-0159, Order Approving The Transfer Of Assets, Footnote 4, February 11, 2009.

12. Accordingly, Company was not required to file a 60-day Notice of Filing pursuant to 4 CSR 240-4.020(2). However, to the extent that a 60-day Notice of Filing could otherwise be

required under 4 CSR 240-4.020(2), Atmos respectfully requests that such notice requirement be waived for good cause since the Agreement was just executed last month and the parties desire expedited approval of the transaction as previously set forth herein. 4 CSR 240-4.020(2)(B).

**WHEREFORE**, for the reasons stated above, Atmos Energy Corporation respectfully requests that the Commission issue an order in this case that:

- (1) Finds that the transaction described in the Agreement is not detrimental to the public interest;
- (2) Approves the sale of assets in accordance with the terms of the Agreement;
- (3) Grants Company's Motion for Expedited Treatment resulting in the issuance of an order herein by April 6, 2011, or as soon as possible thereafter;
- (4) To the extent it may be necessary or otherwise required, grants Company's Motion for Waiver of Commission Rule 4 CSR 240-4.020(2);
- (5) Grants such other relief as is appropriate under the circumstances.

Respectfully submitted,

/s/ Larry W. Dority

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Attorneys for Atmos Energy Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been emailed, mailed or hand-delivered  
this 4<sup>th</sup> 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

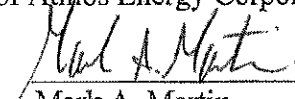
/s/ Larry W. Dority

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Larry W. Dority


VERIFICATION

Commonwealth of Kentucky       )  
  )  
City of Owensboro                )       ss

I, Mark A. Martin, being of lawful age state: that I am Vice-President of Rates and Regulatory Affairs for Atmos Energy Corporation, that I have read the foregoing Application and Motion for Expedited Treatment and Waiver ("Application") and the document attached thereto; that the statements and information set forth in such Application and attached document are true and correct to the best of my information, knowledge and belief; and, that I am authorized to make this statement on behalf of Atmos Energy Corporation.

  
\_\_\_\_\_  
Mark A. Martin

Subscribed and sworn to before me this 4<sup>th</sup> day of March 2011.

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

My Commission expires: 11/15/2011

**APPENDIX A**  
**IS DEEMED**  
**HIGHLY CONFIDENTIAL**  
**IN ITS ENTIRETY**