

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of Atmos Energy Corporation's)
Tariff Revision Designed to Consolidate Rates)
and Implement a General Rate Increase for)
Natural Gas Service in the Missouri Service)
Area of the Company.)

Case No. GR-2006-0387

STAFF'S MOTION FOR CLARIFICATION

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its Motion for Clarification, states as follows:

1. This matter was remanded to the Commission by the Circuit Court of Cole County on September 17, 2009, following reversal and remand by the Missouri Court of Appeals, Western District. ***State ex rel. Public Counsel v. Missouri Public Service Commission***, 289 S.W.3d 240 (Mo. App., W.D. 2009).

2. Thereafter, the Commission invited procedural recommendations from the parties, due by October 30, 2009.

3. The parties differed in the advice offered to the Commission. Public Counsel opined that the Commission has two options, either to issue a new order based on the existing record or to issue a new order based on a re-opened and supplemented record. Staff and Atmos, in a joint filing, suggested instead that the remanded issues be addressed in a new rate case that Atmos intends to file prior to the end of calendar year 2009. Public Counsel responded by asserting, that "the procedure proposed by Atmos and the Staff would violate Public Counsel's right to due process."

4. On November 24, 2009, the Commission issued two orders. The first set an “on-the-record” presentation for December 15, 2009, and listed three items that each party should be prepared to address at that time, to-wit:

(1) Procedural timelines;

(2) Whether the record should be re-opened and additional evidence adduced; and

(3) Hypothetical scenarios regarding reversion to status quo rate design and effects on revenue requirement and rate classes.

The second order directed the parties to file a pleading disclosing certain specified information about any expert witness they might intend to “tender” at the “on-the-record” proceeding set for December 15.

5. Staff points out that an “on-the-record” presentation in practice at this Commission is traditionally an oral argument by counsel. It is not an evidentiary proceeding and evidence is not typically adduced. Consequently, Staff would generally not intend to present any expert witnesses at an “on-the-record” proceeding. However, the second order issued by this Commission on November 24 clearly contemplates the receipt of expert testimony, presumably on the “hypothetical scenarios” that the parties have been directed to be prepared to address.

6. Staff agrees with the concerns raised by the Office of Public Counsel in its *Motion for Clarification*, filed herein on December 3. It is not clear what issue or issues testimony will be taken on and Staff is not certain what expert or experts the Commission desires to hear from.

7. Staff suggests that the Commission issue scenarios and direct the parties to respond thereto in writing. This is a procedure frequently employed in past rate cases before this Commission.

WHEREFORE, Staff prays that the Commission will grant clarification as requested herein.

Respectfully submitted,

s/ Kevin A. Thompson_____

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **7th day of December, 2009**, on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Kevin A. Thompson_____