

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

In the Matter of Atmos Energy Corporation's Tariff )  
Revision Designed to Consolidate Rates and ) File No. GR-2006-0387  
Implement a General Rate Increase for Natural Gas )  
Service in the Missouri Service Area of the Company. )

In the Matter of Atmos Energy Corporation's Tariff )  
Revision Designed to Implement a General Rate ) File No. GR-2010-0192  
Increase for Natural Gas Service in the Missouri ) Tariff No. YG-2010-0426  
Service Area of the Company. )

**RESPONSE OF ATMOS ENERGY CORPORATION  
IN OPPOSITION TO APPLICATION FOR REHEARING**

COMES NOW Atmos Energy Corporation ("Atmos"), pursuant to Missouri Public Service Commission ("Commission") Rule 4 CSR 240-2.080(15), and submits its Response in Opposition to the Application for Rehearing filed by the Office of the Public Counsel ("OPC") on February 12, 2010, in File No. GR-2006-0387.<sup>1</sup> For its Response, Atmos respectfully states as follows:

1. In its Application for Rehearing, OPC urges the Commission to rehear its Order Consolidating Cases ("Order") which was entered in the above-referenced matters on February 13, 2010.<sup>2</sup> This Commission is authorized to grant an application for rehearing "if in its judgment sufficient reason therefore be made to appear."<sup>3</sup> Atmos respectfully submits that OPC has not met this standard and its request for rehearing must be denied.

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<sup>1</sup> Counsel for Atmos received a Notification of Submission generated by the Commission's Electronic Filing and Information System ("EFIS") on February 16, 2010, reflecting that OPC's Application for Rehearing had been filed in Consolidated File No. GR-2010-0192.

<sup>2</sup> While Commission Rule 4 CSR 240-2.160(2), regarding applications for reconsideration of procedural and interlocutory orders, would appear to apply to this particular procedural and interlocutory Order, Atmos respectfully submits that OPC's Application for Rehearing fails under either procedural avenue afforded by 4 CSR 240-2.160.

<sup>3</sup> Section 386.500.1, RSMo 2000.

2. As the Commission recites in its Order, it “(1) reviewed the voluminous evidentiary record in its entirety, (2) entertained multiple pleadings and cross-pleadings propounding legal argument from the parties, (3) held an on-the-record proceeding to allow for oral argument on the legal positions of the parties; and (4) reviewed and analyzed the statutory, regulatory and case law controlling the issues upon which remand was based.”<sup>4</sup> Regarding the status of Atmos’ current tariff, the Commission underscored the important point that “the Western District did not expressly find the current tariff implementing the straight fixed variable rate design to be unlawful. . . . The tariff remains operational until the Commission makes its decision on remand and new compliance tariffs become effective in conformity with that subsequent order.”<sup>5</sup>

WHEREFORE, Atmos Energy Corporation respectfully requests that OPC’s Application for Rehearing be denied.

Respectfully submitted,

**/s/ Larry W. Dority**

James M. Fischer, MBN 27543

Larry W. Dority, MBN 25617

Fischer & Dority, P.C.

101 Madison Street, Suite 400

Jefferson City, MO 65101

Telephone: (573) 636-6758

Facsimile: (573) 636-0383

email: [lwdority@sprintmail.com](mailto:lwdority@sprintmail.com)

Douglas C. Walther, MBN 32266

Associate General Counsel

Atmos Energy Corporation

P.O. Box 650205

Dallas, Texas 75265-0205

Attorneys for Atmos Energy Corporation

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<sup>4</sup> Order, page 2.

<sup>5</sup> *Id.*, page 5.

### **CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, First Class mail, postage prepaid, this 19<sup>th</sup> day of February, 2010, to all counsel of record in this matter.

**/s/ Larry W. Dority**

Larry W. Dority