

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 24, 2012

IN RE:

**PETITION FOR APPROVAL OF CONTRACT
REGARDING GAS COMMODITY REQUIREMENTS
AND MANAGEMENT OF TRANSPORTATION/
STORAGE CONTRACTS**

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**DOCKET NO.
11-00034**

**ORDER APPROVING CONTRACT REGARDING GAS COMMODITY REQUIREMENTS
AND MANAGEMENT OF TRANSPORTATION/STORAGE CONTRACTS**

This matter came before the Tennessee Regulatory Authority (the "Authority" or "TRA") at a regularly scheduled Authority Conference held on January 9, 2012, for consideration of Atmos Energy Corporation's ("Atmos" or the "Company") *Petition for Approval of Contract Regarding Gas Commodity Requirements and Management of Transportation/Storage Contracts* ("Petition") filed on March 3, 2011.

PROCEDURAL BACKGROUND

Atmos was first ordered to file all future Asset Management Agreements ("AMA") or renewals for approval by the TRA prior to their effective date in Docket No. 05-00253 on December 6, 2007.¹ Also, by Order dated December 6, 2007, the Authority approved a new Performance Based Ratemaking Rider ("PBR") tariff for Atmos to incorporate and implement RFP procedures for selection of an asset manager in Docket No. 05-00253.² Thereafter, on March 20, 2008, Atmos initiated the first review process by the TRA of its RFP procedures, selection of its asset manager and asset management contract in Docket No. 08-00024 by filing its *Motion for Approval of Contract Regarding Gas Commodity Requirements and Management of Transportation/Storage*

¹ In Re: Atmos Energy Corporation's Annual Cost Adjustment (ACA) for the Twelve Months Ended June 30, 2005, *Order Approving Notice of Clarification of Audit Report*, Docket No. 05-00253, p. 2 (June 14, 2007).

² In Re: Atmos Energy Corporation's Annual Cost Adjustment (ACA) for the Twelve Months Ended June 30, 2005, *Order Approving Tariff*, Docket No. 05-00253, p. 2 (December 6, 2007).

Contracts seeking that the Authority evaluate whether Atmos complied with the RFP procedures in its tariff and determine whether to approve or deny the proposed AMA. The Authority found that based on the detailed bid evaluation provided by the Company that the AMA benefited customers and voted unanimously to approve the contract regarding the Company's gas commodity requirements and management of its transportation and storage contracts.

The instant docket was opened upon the filing on March 3, 2011 by Atmos for approval of its *Petition*, along with a Protective Order. The *Petition* requests approval of a new gas commodity and transportation and storage management contract executed and scheduled to begin on April 1, 2011, with Atmos Energy Marketing, LLC ("AEM"). Thereafter, on March 17, 2011, Atmos filed the *Direct Testimony of Rebecca M. Buchanan* with exhibits under seal and marked confidential. At an Authority Conference on March 28, 2011, the Directors voted to convene a contested case in this matter and to appoint a hearing officer to handle preliminary matters. On March 31, 2011, Atmos filed a revised proposed Protective Order incorporating certain language suggested by the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate" or "CAPD"). On March 31, 2011, the CAPD filed a *Petition to Intervene* requesting to intervene as a party in the proceedings.

On June 3, 2011, Atmos filed a *Notice of Filing Action Brief and Order* which included a copy of the Virginia State Corporation Commission's Action Brief, dated April 26, 2011, and Order Granting Authority, issued May 9, 2011, reflecting action taken by the Virginia commission on Atmos' AMA. On August 19, 2011, Atmos filed its Third Revised Sheet No. 45.1 revising its original tariff sheet to add language to its Performance Based Ratemaking Mechanism Rider clarifying the application of revenue derived from asset management agreements or other forms of compensation. The proposed tariff language makes it clear that 10% of asset management savings can be shared with stockholders, while ratepayers receive 90% of the savings.

On September 2, 2011, the Hearing Officer entered a *Protective Order* and issued an *Order Granting Petition to Intervene of the Consumer Advocate*. On December 20, 2011, Atmos filed a *Request for Ruling* asking the Authority to consider and rule on this matter at the next Authority Conference. On December 21, 2011, the CAPD filed a *Statement of the Consumer Advocate's Intent Not to Contest the Asset Management Agreement with Atmos Energy Marketing, LLC and the Third Revised Sheet No. 45.1 of Atmos' Tariff* stating that it was not opposed to the *Petition* or revised Tariff filed by Atmos, but requested that it remain as an Intervener in this matter, for the purpose of monitoring, receiving future notices and communications, and for evaluating any future information regarding this docket.

TARIFF REQUIREMENTS

Atmos states it has fully complied with the RFP procedures for selection of an asset manager as specified in its approved tariff.³ The criteria for a RFP can be divided into two general categories: those related to the RFP process and those related to the evaluation of the bids.

RFP Process

Atmos' tariff requires that AMAs be placed out for bid using an RFP. The RFP was issued on December 6, 2010.⁴ The RFP must be written, define the Company's assets to be managed, detail the Company's minimum service requirements, describe the content requirements of the bid proposals, include procedures for submission and evaluation of the bid proposals, and be open for a minimum period of thirty days. The Company is required to send the RFP to potential asset managers.⁵ Atmos stated it distributed its RFP to over 300 e-mails via its website and published it in Platt's Gas Daily on December 8 and December 22, 2010, as

³ *Petition for Approval of Contract Regarding Gas Commodity Requirements and Management of Transportation/Storage Contracts*, p. 1 (March 3, 2011).

⁴ *Id.* at 3.

⁵ Atmos Energy Corporation, Tariff No. 1, 2nd Revised Sheet Nos. 45.3 and 45.4.

specified by the tariff.⁶ The RFP called for a three-year agreement beginning on April 1, 2011, to supply gas commodity requirements and manage AEC's transportation and storage contracts. The AMA covers Tennessee and Virginia because Atmos' system overlaps the Tennessee/Virginia state line in Bristol, Tennessee.⁷

Atmos' tariff requires that all bids be submitted in writing prior to the deadline and allows Atmos to solicit follow-up bids in a non-discriminatory manner. All bids received were in writing prior to the deadline. Additionally, the winning bid will be the one with the highest value bid received, the result of a competitive bidding process conducted in accordance with RFP procedures.⁸ Atmos evaluated the bids received and determined that AEM had submitted the bid providing the highest overall value to customers and should be awarded the contract.⁹ In making this evaluation, Atmos considered the criteria set forth in the RFP tariff. According to Atmos, the AMA provided a significant benefit to Atmos customers. The gas supply portion of the contract will result in significant savings to Atmos' gas customers.¹⁰

Bid Evaluation

According to Atmos' tariff, each bid must be evaluated on the following criteria: "(a) the total value of the bid proposal; (b) the bidder's ability to perform the RFP requirements; (c) the bidder's asset management qualifications and experience; and (d) the bidder's financial stability and strength."¹¹ Atmos' tariff also requires that the asset manager maintain documents and records of all transactions that utilize the Company's gas supply assets and allow the Company and the TRA Staff to review and examine those documents.¹²

⁶ *Petition for Approval of Contract Regarding Gas Commodity Requirements and Management of Transportation/Storage Contracts*, p. 3 (March 3, 2011).

⁷ *Id.*

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Atmos Energy Corporation, Tariff No. 1, 2nd Revised Sheet Nos. 45.3 and 45.4.

¹² *Id.*

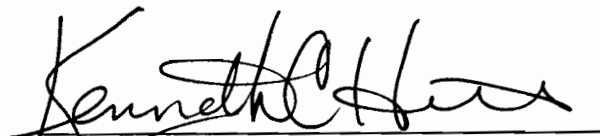
The proposed AMA contains language similar to tariff language establishing this requirement. Atmos stated that the new AMA replaces the current asset management agreement approved by the Authority on July 9, 2008 in Docket No. 08-00024. The current agreement expires on March 31, 2011.

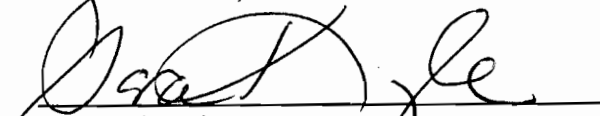
FINDINGS AND CONCLUSIONS

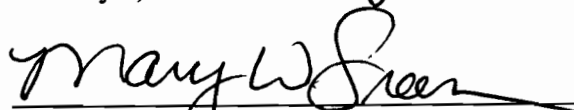
At the regularly scheduled Authority Conference held on January 9, 2012, the panel considered whether to approve the AMA. After considering the record as a whole, the panel found that Atmos had complied with its RFP and bidding process criteria set forth in its tariff. Further, the panel found that approval of the AMA as of April 1, 2011 is necessary in order for Atmos to continue to serve its customers and those customers may share in the transportation and storage assets as of that date. The panel voted unanimously to approve the *Petition* and the proposed amendment to Atmos' PBR tariff, also effective April 1, 2011.

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Approval of Contract Regarding Gas Commodity Requirements and Management of Transportation/Storage Contracts* filed by Atmos Energy Corporation on March 3, 2011 is approved with an effective date of April 1, 2011.
2. The Third Revised Sheet No. 45.1 of Atmos' tariff is approved with an effective date of April 1, 2011.


Kenneth C. Hill, Chairman


Sara Kyle, Director


Mary W. Freeman, Director