BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 19, 2011

IN RE:	)	
	)	
PETITION OF ATMOS ENERGY CORPORATION FOR APPROVAL OF GAS TRANSPORTATION AGREEMENT WITH U.S. NITROGEN, LLC	)))	**DOCKET NO. 11-00122**

ORDER GRANTING APPROVAL OF SPECIAL CONTRACT

This matter came before the Tennessee Regulatory Authority ("TRA" or the "Authority"), at a regularly scheduled Authority Conference held on November 7, 2011, for consideration by the voting panel of the *Petition* filed on August 2, 2011 by Atmos Energy Corporation ("Atmos" or "Company").

BACKGROUND

On August 2, 2011, Atmos filed a *Petition* and Pre-filed Testimony of William Greer seeking approval of a negotiated Gas Transportation Agreement ("Agreement") with U.S. Nitrogen, LLC ("U.S. Nitrogen") dated June 23, 2011. Thereafter, on August 15, 2011, the Consumer Advocate and Protection Division of the Office of the Attorney General ("CAPD") filed a *Petition to Intervene.* On September 2, 2010, the Authority issued an *Order Convening a Contested Case and Appointing a Hearing Officer,* an *Order Granting the CAPD Petition to Intervene*, and a *Protective Order.* On October 6, 2011, the CAPD filed its *Statement of the Consumer Advocate's Intent Not to Contest the Gas Transportation Agreement with U.S. Nitrogen.*[1]

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[1] The Consumer Advocate stated that it did not intend to contest the Agreement between Atmos and U.S. Nitrogen, however, wanted to remain as an Intervenor in this docket for purposes of monitoring and receiving future notices and communications and for evaluating any future information submitted in this docket.

THE *PETITION*

U.S. Nitrogen plans to construct a manufacturing facility, expected to be completed by the end of 2012, in western Greene County, Tennessee, to manufacture liquid ammonium nitrate, which will be sold to other companies to make explosives and fertilizer.[2] Natural gas is the principal raw material in the manufacturing process. In October 2010, Atmos and U.S. Nitrogen began negotiations for an agreement to allow Atmos to provide U.S. Nitrogen all its natural gas requirements. Due to the large volume requirements and the feasibility of a by-pass of Atmos' system, Atmos was willing to negotiate for lower rates and terms more favorable than available under the tariff. U.S. Nitrogen would have to take gas under Rate Schedule 230 (Large Commercial/Industrial Gas Service) and Rate Schedule 260 (Transportation Service), however, the Agreement reached between the parties provides for a reduction in the price of gas transported and a lower percentage for lost and unaccounted for gas. Also, U.S. Nitrogen will pay Atmos $600,000 for construction of the necessary facilities to serve the plant. The initial term of the Agreement is ten years, with provisions for automatic renewal for four successive five-year terms, followed by successive one-year terms thereafter.[3] The Agreement expressly provides that it will not be effective and binding until approved by the Authority. Atmos is not seeking recovery from ratepayers for any lost margin between tariff and contract rates.

FINDINGS AND CONCLUSIONS

TRA Rule 1220-4-1-.07, states:

> Special contracts between public utilities and certain customers prescribing and providing rates, services and practices not covered by or permitted in the general tariffs, schedules, or rules filed by such utilities are subject to supervision, regulation, and control by the Authority. A copy of such special agreements shall be filed, subject to review and approval.

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[2] *Petition*, p. 3 (August 2, 2011).

[3] Lost and unaccounted for gas is the difference between the amount of gas metered (or delivered) into the distribution system at the city gate and the gas metered at the end user's facility, which is billed to customers. This difference is often expressed as a percentage of system delivered gas and is caused primarily by meter uncertainty and/or accuracy, since gases are more difficult to measure than liquids.

Following precedents set in prior dockets,[4] the panel noted that the Authority has established and considers four criteria. The criteria are whether:

1. Customer by-pass is imminent;

2. Such by-pass would be uneconomic;

3. The contract rates and terms are just and reasonable and are not unjustly preferential or unduly discriminatory; and

4. The contract rates are the highest that could be negotiated.

The panel found that the proposed contract meets the criteria for approval of a discounted long-term transportation contract and meets the intent of TRA Rule 1220-4-1-.07 and furthers the public interest because it benefits Atmos, its other customers and will allow U.S. Nitrogen to meet its needs to manufacture its product and run its plant. Based on the record and the findings, the panel voted unanimously to approve Atmos' Gas Transportation Agreement with U.S. Nitrogen, as filed.

IT IS THEREFORE ORDERED THAT:

The negotiated Gas Transportation Agreement by and between Atmos Energy Corporation and U.S. Nitrogen, LLC is approved, as filed.

Kenneth C. Hill, Chairman

Sara Kyle, Director

Mary W. Freeman, Director

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[4] *See e.g. In re: Application of Nashville Gas Company, a Division of Piedmont Natural Gas Company, for Approval of Negotiated Gas Redelivery Agreement with Visteon Corporation*, Docket No. 01-00530; *In re: Petition of Nashville Gas Company for Extension of Negotiated Gas Redelivery Agreement with State Industries*, Docket No. 02-01270; *In re: Petition of Nashville Gas Company for Extension of Negotiated Gas Redelivery Agreement with Bridgestone/Firestone Industries, Docket No. 02-01271*; *In re: Application of Piedmont Natural Gas Company, Inc. for Approval of Negotiated Gas Redelivery Agreement with Bridgestone/Firestone*, Docket No. 10-00015.