

**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)
)
PETITION OF ATMOS ENERGY)
CORPORATION TO REVISE)
PERFORMANCE BASED) **TRA Docket No. 16-00028**
RATEMAKING MECHANISM TARIFF)
RIDER)

SETTLEMENT AGREEMENT

In compromise and settlement of this matter, Tennessee Regulatory Authority (TRA) Docket No. 16-00028, Herbert H. Slatery III, the Tennessee Attorney General and Reporter, by and through the Consumer Protection and Advocate Division (CPAD), Atmos Energy Corporation (Atmos Energy), and TRA Party Staff (Party Staff) respectfully submit this Settlement Agreement (Settlement Agreement). Subject to TRA approval, CPAD, Atmos Energy, and Party Staff (individually, a Party and, collectively, the Parties) agree to the following:

BACKGROUND

1. Atmos Energy is incorporated under the laws of the State of Texas and the Commonwealth of Virginia and is engaged in the business of transporting, distributing and selling natural gas in Bedford, Blount, Carter, Greene, Hamblen, Maury, Moore, Obion, Rutherford, Sullivan and Williamson Counties within the State of Tennessee, with its principal Tennessee office and place of business located at 810 Crescent Centre Drive, Suite 600, Franklin, Tennessee 37067-6226.

2. The Tennessee public utility operations of Atmos Energy are subject to the jurisdiction of the TRA, pursuant to Chapter 4 of Title 65 of the Tennessee Code Annotated.

3. For many years, a Performance-Based Ratemaking Mechanism (PBRM) Rider has been part of the approved Tariff for Atmos Energy, appearing at pages 45.1 et seq. of Atmos Energy's approved Tennessee Tariff. The PBRM replaces the reasonableness or prudence review of Atmos Energy's gas purchasing activities overseen by the TRA in accordance with Rule 1220-4-7-.05, Audit of Prudence of Gas Purchases. The PBRM is designed to encourage Atmos Energy to optimize its gas purchasing and other gas supply activities by providing for the sharing of the resultant economic benefits of these activities between Atmos Energy and Atmos Energy's customers. Sharing criteria and percentages are specified in the PBRM Tariff. The PBRM Tariff establishes an Incentive Plan Account (IPA) to track Atmos Energy's net shared savings under the Plan, and a plan year that runs from April 1 to March 31. Following an annual audit of Atmos Energy's IPA, the PBRM Tariff provides that Atmos Energy's net share of savings shall be recovered through a corresponding rate adjustment.

4. The existing Atmos PBRM Tariff divides the plan into two large buckets. The first bucket covers gas procurement activities. This includes Atmos Energy's gas commodity purchases, which are compared to specified benchmark gas cost indices, and are subject to a dead-band within which Atmos Energy does not share in any generated savings or overages. The current tariff includes a triennial dead-band reset provision, which causes the dead-band to be lowered (thus potentially making it harder to achieve savings) whenever Atmos Energy has outperformed market indices in the second year of the three-year period. Also included within this first bucket are Atmos Energy's gas transportation cost savings. As distinguished from gas commodity (the physical natural gas itself), gas transportation represents the cost to procure gas

pipeline services to ship the gas from the gas fields where it is produced, or the gas storage areas where it is stored, to the point where Atmos Energy's distribution system begins (known as Atmos Energy's "city gate). Atmos Energy's efforts to obtain transportation cost savings can be grouped into two areas. First, Atmos Energy has worked to lessen these gas transportation costs by structuring and contracting for alternate, lower-cost gas transportation pathways that avoid some of the costs of the traditional Louisiana-to-Tennessee gas pathway. Savings generated by these activities have been referred to by the Parties as "avoided cost" transactions. Second, Atmos Energy has generated savings by substituting "delivered service" gas supply contracts for some of its more traditional long term fixed capacity pipeline contracts. Under these delivered service arrangements, Atmos Energy has contracted with a supplier for bundled gas commodity and pipeline transportation delivery to Atmos Energy's city-gate, pursuant to certain criteria developed and placed for bid by Atmos Energy pursuant to a request for proposal (RFP) process. By getting a bundled service from a supplier, Atmos Energy may avoid some pipeline transportation costs that would otherwise be incurred. Under the current PBRM Tariff, if savings generated by all of these activities fall outside the dead-band, they are shared 50/50 between Atmos Energy and its customers.

5. The second bucket of savings under the current PBRM Tariff covers revenue generated by Atmos Energy's gas pipeline capacity management activities. As discussed above, a gas company must contract for the gas pipeline capacity needed to ship natural gas from where it is produced or stored to the company's city gate. The company must contract for enough capacity to ensure that it can deliver the volume of gas needed to serve its customers on a peak day (typically defined as the coldest day by a specified measure). Furthermore, Atmos Energy believes that a gas company must purchase most of this gas pipeline capacity on a long-term

fixed basis in order to prudently ensure sufficient capacity to meet its customers' peak day needs. On warm days, therefore, some of this capacity goes unused. This unused capacity has economic value, and since the 1990s interstate gas market regulations have allowed such "secondary capacity" to be traded, and particularly allowed for gas companies like Atmos Energy to enter into "asset management agreements," under which the gas company "releases" this unused secondary capacity to an asset manager. Under an asset management agreement (AMA), the asset manager pays the gas utility for the release of this secondary capacity (or offers other equivalent value such as discounted gas prices). The asset manager in turn markets this secondary capacity to industrial and other gas customers who can make use of a secondary right to ship natural gas, meaning that these customers can use the pipeline only on those days (typically warm days) when the utility does not need it to serve the utility's regular customers. Under the Atmos' PBRM, Atmos Energy must utilize a specified request for proposal and bidding process prior to entering into an AMA, which, pursuant to a TRA Order, is then subject to TRA approval. Under the existing Atmos PBRM Tariff, any revenues obtained from such asset management activities, i.e., AMA fees, are shared between Atmos Energy and its customers on a 90%/10% basis, with 90% going to the customers. Under the existing Atmos PBRM, if Atmos Energy releases unused capacity to a third party, other than the asset manager, the associated revenues are shared between Atmos Energy and its customers on a 90%/10% basis, with 90% going to the customers.

6. Under the existing Atmos Energy PBRM Tariff, Atmos Energy's share of total savings is subjected to an annual cap of \$1.25 million.

7. In Docket No. 13-00111, Atmos Energy petitioned to make certain revisions to its PBRM Tariff, including revisions that would address the dead-band reset provisions of the tariff.

While other, largely housekeeping, revisions were made to the tariff at that time, the TRA stayed action on the dead-band reset provision until April 1, 2017, and ordered that this issue and other aspects of Atmos Energy's PBRM Tariff be included in an upcoming triennial review by an independent consultant, which had been ordered by the TRA in Docket No. 07-00225.

8. As required by the final orders in Docket Nos. 07-00225 and 13-00111, Exeter Associates, Inc. (Exeter), an independent consultant, completed a review of Atmos Energy's PBRM. The Exeter Report was filed in Docket No. 07-00225.

9. On March 15, 2016, in response to Exeter's report, Atmos Energy filed a Petition seeking approval of Exeter's recommended changes to Atmos Energy's PBRM Tariff. Exeter's recommended changes included the following:

a) NYMEX futures prices should be excluded from the benchmark calculations under the PBRM;

b) The 90% customer and 10% Atmos Energy sharing provisions under the Capacity Management Incentive Mechanism (CMIM) component of the PBRM should continue to apply for AMA fees;

c) A 75% customer and 25% Atmos Energy sharing should apply under the CMIM for capacity release revenues and off-system sales margins;

d) A 75% sales customer and 25% Atmos Energy sharing provision should be adopted under the Gas Procurement Incentive Mechanism (GPIM) component of the PBRM;

e) Avoided pipeline transportation costs should be shared under the GPIM component of the PBRM at the 75/25 percentages for no more than three years. After

three years of sharing at the 75/25 percentages under a particular arrangement, a 90/10 percentage sharing of avoided demand charges should apply;

f) Savings associated with the replacement of existing year-round transportation arrangements with less expensive arrangements or winter seasonal arrangements, and the replacement of Atmos Energy's relatively more expensive storage arrangements with lower-cost alternatives should be considered for inclusion under the PBRM as avoided demand charges; and

g) Elimination of the \$1.25 million PBRM cap and the dead-band.

10. On March 21, 2016, CPAD filed a Petition to Intervene. By order dated April 20, 2016, CPAD's intervention was granted.

11. On May 25, 2016, Jim Layman, Joe Shirley, Michelle Ramsey, Pat Murphy, and Daniel Ray were designated as TRA Party Staff in this Docket, pursuant to Tenn. Rules and Regs. 1220-1-2-.21.

12. The Parties to this Settlement Agreement have engaged in discovery and Atmos Energy also has provided information informally in response to questions from CPAD and TRA Party Staff.

13. The Parties and their experts have undertaken extensive discussions and "give and take" negotiations to resolve all known disputed issues in this case. They have worked toward development of a revised PBRM Tariff that is workable and provides a rational and fair package set of incentive provisions. For the purpose of avoiding further litigation and resolving this proceeding upon acceptable terms, the Parties have agreed to the settlement terms set forth below, subject to TRA Approval, which the Parties jointly request.

SETTLEMENT

14. The Parties jointly support and seek TRA approval and adoption of the revised PBRM Tariff attached hereto as Exhibit A, the terms of which are incorporated herein by reference. In summary, the PBRM Tariff has been revised to incorporate the following general features, although the text of Exhibit A shall control to the extent of any disagreement with this summary:

a. The Tariff has been divided into four general sections: GPIM; CMIM; ACIM; and Off System Sales Incentive Mechanism (OSIM).

b. For the ACIM, the revised PBRM Tariff compares Atmos Energy's actual performance to an agreed benchmark gas transportation path, priced at published FERC tariff max rates. The initial benchmark path is the path followed by Atmos Energy's current contracts, which is as follows:

Area	Contract	Expiration	Pipeline	Capacity	Current Benchmark Path
Mid TN	Tetco FT-1 910800R2	3/31/2019	Tetco	5,000	M2 to M1
Mid TN	Tetco FT-1 911195 R2	3/31/2019	Tetco	5,000	ELA to M1
Mid TN	Tetco FT-1 911193 MTN	3/31/2019	Tetco	5,000	M1 to M1
Mid TN	CGT - FT 23481	3/31/2019	CGT	22,500	Onshore Zone to Mainline Zone
Mid TN	CGT - FT 23188	3/31/2019	CGT	15,000	Onshore Zone to Mainline Zone
Mid TN	CGT - FT 142156	3/31/2019	CGT	12,500	Mainline Zone to Mainline Zone
Mid TN	CGT - FT 168971	3/31/2018	CGT	10,000	Onshore Zone to Mainline Zone
Mid TN	Barnsley Exchange UCG 10924	3/31/2019	Tetco	10,000	ELA to M1
Mid TN	Barnsley Exchange UCG 10924	3/31/2019	CGT	17,000	Onshore Zone to Mainline Zone
Mid TN	AEM Delivered Service on TETCO	3/31/2019	Tetco	11,500	ELA to M1
Mid TN	AEM Delivered Service on CGT	3/31/2019	CGT	11,500	Onshore Zone to Mainline Zone
Mid TN	Tetco SS-1 Agreement # 400244 R3	3/31/2019	Tetco	3,000	SS-1 M1 to M1
Mid TN	ETNG Capacity serving Middle TN	3/31/2019	ETNG+TGP	8,000	ETNG FT-A + TGP Z1 to Z1
Mid TN	Tetco FT-1 911392	10/31/2017	Tetco	4,000	ELA to M1
ETN & VA	TGP FT-A 69218	3/31/2025	TGP	19,000	Zone 1 to Zone 1
ETN & VA	TGP FT-A 69218	3/31/2025	TGP	15,000	Zone 0 to Zone 1
ETN & VA	TGP FT-A 92725	3/31/2025	TGP	5,000	Zone 1 to Zone 1
ETN & VA	TGP FT-A 92725	3/31/2025	TGP	5,000	Zone 0 to Zone 1
ETN & VA	Southern Natural FSNG239	8/31/2018	SONAT	5,845	Production0 to Zone 3

ETN & VA	Southern Natural FSNG239	8/31/2018	SONAT	1,813	Production 1 to Zone 3
ETN & VA	CGT - FT 158165 into ETNG Trousdale	3/31/2020	CGT	10,000	Onshore Zone to Mainline Zone
ETN & VA	CGT - FT 169319 Capacity Release into ETNG Trousdale	3/31/2019	CGT	5,000	Onshore Zone to Mainline Zone
ETN & VA	Tetco FT-1 911193 ETN	3/31/2019	Tetco	10,000	M1 to M1
ETN & VA	Nora/Jewell Ridge Delivered Service into ETNG	3/31/2019	TGP	13,283	Zone 1 to Zone 1
ETN & VA	Nora/Jewell Ridge Delivered Service into ETNG	3/31/2019	TGP	13,284	Zone 1 to Zone 1
ETN & VA	Winter Delivered Supply TGP into ETNG	3/31/2019	TGP	7,341	Zone 1 to Zone 1
ETN & VA	Winter Delivered Supply Transco into ETNG - Cascade Creek	3/31/2019	Transco	1,600	Zone 3 to Zone 5

If Atmos Energy changes the path or capacity on any of the contracts that form the benchmark path, then one year from the effective date of the change the path and capacity from the new contract will become part of the benchmark path. During that one year period, savings will be determined by comparing the actual transportation cost for the new contract with the cost using the path for the old contract (priced at published FERC tariff max rates for the old contract's path); provided, however, that if the total capacity of the new contract exceeds that of the old contract, then the old contract's path will be used for comparison only up to the capacity of the old contract, and above that the new contract's path will be used for comparison. Following that one year period, savings on the new contract will be determined by comparing the actual transportation cost for the new contract against the cost for the new contract's path and capacity priced at published FERC tariff max rates. For avoidance of doubt, whenever savings are calculated under the ACIM, the benchmark price used for comparison will always be the published FERC tariff max rate.

c. Sharing percentages (customer/Atmos Energy) have been agreed as follows: ACIM 85%/15%; GPIM 75%/25%, OSIM 75%/25%, CMIM 75%/25%, AMA up-front fees 90%/10%.

d. The overall annual cap on Atmos Energy's share of savings has not been eliminated, but has been changed to \$2 million.

e. The dead-band has been eliminated.

f. NYMEX futures prices index is excluded from the benchmark calculations under the PBRM.

g. Atmos Energy's next triennial review will be conducted starting in September of 2021, with the independent consultant's report to be completed by July 1 of 2022, and triennial reviews will be conducted once every three years thereafter.

h. Definitional language has been added to the OSIM;

i. The IPA rate adjustment filing shall be made by May 31 each year, with the new rates to become effective July 1.

j. A provision has been added to the section of the Tariff specifying RFP procedures for the selection of an asset manager and/or gas provider. That provision provides that Atmos Energy shall file a Petition seeking TRA approval of its compliance with the procedures no later than December 1, for agreements to be implemented effective the following April 1.

15. The Parties further agree and seek TRA approval that the revised PBRM Tariff attached hereto as Exhibit A should be deemed effective April 1, 2016, so that it will apply to the current PBRM plan year (April 1, 2016 through March 31, 2017).

16. Atmos Energy's earnings under the PBRM plan will not offset recovery or otherwise impact implementation of Atmos Energy's ARM Tariff; provided, however, that this agreement shall not limit consideration of this or any other issue in Atmos Energy's next or any subsequent general rate case proceeding.

17. As discussed above, the resolution of issues reflected herein is the result of give and take negotiations between the Parties and does not necessarily reflect the position of any single Party on any discrete issue, and, except as agreed in paragraph 16 above, no Party waives the right to assert any position in any future proceeding.

18. All pre-filed testimony and exhibits of the Parties are introduced into evidence without objection, and the Parties waive their right to cross-examine all witnesses with respect to all such pre-filed testimony. If, however, questions should be asked by any person, including a Director, the Parties may present testimony and exhibits to respond to such questions and may cross-examine any witnesses with respect to such testimony and exhibits.

19. The Parties agree to support this Settlement Agreement before the TRA and in any hearing, proposed order, or brief conducted or filed in this proceeding. The provisions of this Settlement Agreement are agreements reached in compromise and solely for the purpose of settlement of this matter. The provisions in this Settlement Agreement do not necessarily reflect the positions asserted by any Party. None of the Parties to this Settlement Agreement shall be deemed to have acquiesced in or agreed to any ratemaking or accounting methodology or procedural principle, including without limitation, any cost of service determination or cost allocation or revenue-related methodology except to the limited extent necessary to implement the provisions hereof.

20. This Settlement Agreement shall not have any precedential effect in any future proceeding or be binding on any of the Parties in this or any other jurisdiction except to the limited extent necessary to implement the provisions hereof.

21. The Parties agree and request the TRA to order that the settlement of any issue pursuant to this Settlement Agreement shall not be cited by the Parties or any other entity as binding precedent in any other proceeding before the TRA or any court, state or federal.

22. The terms of this Settlement Agreement have resulted from extensive negotiations between the signatories and the terms hereof are interdependent. The Parties jointly recommend that the TRA issue an order adopting this Settlement Agreement in its entirety without modification.

23. If the TRA does not accept the settlement in whole, the Parties are not bound by any position or term set forth in this Settlement Agreement. In the event that the TRA does not approve this Settlement Agreement in its entirety, each of the signatories to this Settlement Agreement will retain the right to terminate this Settlement Agreement by giving notice of the exercise of such right within ten business days of the date of such non-approval; provided, however, that the signatories to this Settlement Agreement could, by unanimous consent, elect to modify this Settlement Agreement to address any modification required by, or issues raised by, the TRA. Should this Settlement Agreement terminate, it would be considered null and void and have no binding precedential effect, and the signatories to this Settlement Agreement would reserve their rights to fully participate in all relevant proceedings notwithstanding their agreement to the terms of this Settlement Agreement.

24. By agreeing to this Settlement Agreement, no Party waives any right to continue litigating this matter should this Settlement Agreement be rejected by the TRA in whole or in part.

25. No provision of this Settlement Agreement shall be deemed an admission of any Party except to the limited extent necessary to implement the provisions hereof. No provision of

this Settlement Agreement shall be deemed a waiver of any position asserted by a Party in this Docket except to the limited extent necessary to implement the provisions hereof.

26. Except as specifically agreed in this Settlement Agreement, any request made by Atmos Energy in the Petition shall be deemed to have been withdrawn upon the approval of this Settlement Agreement by the TRA.

27. The Parties agree that this Settlement Agreement constitutes the complete understanding among the Parties concerning the resolution of issues and matters under this TRA Docket No. 16-00028, and any oral statements, representations or agreements concerning such issues and matters made prior to the execution of this Settlement Agreement have been merged into this Settlement Agreement.

28. All exhibits and schedules attached to or referenced in this Settlement Agreement are hereby incorporated by reference into this Settlement Agreement.

29. The Consumer Advocate's and Party Staff's agreement to this Settlement Agreement is expressly premised upon the truthfulness, accuracy and completeness of the information provided by Atmos Energy to CPAD and Party Staff throughout the course of this Docket, which information was relied upon by CPAD and Party Staff in negotiating and agreeing to the terms and conditions of this Settlement Agreement.

30. The acceptance of this Settlement Agreement by the Attorney General shall not be deemed approval by the Attorney General of any of Atmos Energy's acts or practices.

31. Each signatory to this Settlement Agreement represents and warrants that it/he/she has informed, advised and otherwise consulted with the Party for whom it/he/she signs regarding the contents and significance of this Settlement Agreement and has obtained authority to sign on behalf of such Party, and based upon those communications, each signatory represents and

warrants that it/he/she is authorized to execute this Settlement Agreement on behalf of its/his/her respecting Party.

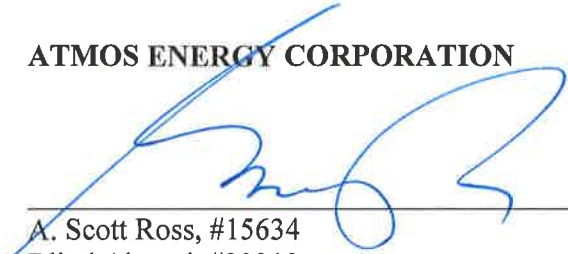
32. This Settlement Agreement shall be governed by and construed under the law of the State of Tennessee, Tennessee choice of law rules notwithstanding.

33. Nothing herein limits or alters the Sovereign Immunity of the State of Tennessee or any of its entities or subdivisions.

The foregoing is agreed and stipulated to this 19th day of December, 2016.

**SETTLEMENT AGREEMENT
IN TRA DOCKET NO. 16-00028
SIGNATURE PAGE**

ATMOS ENERGY CORPORATION



A. Scott Ross, #15634
Blind Akrawi, #23213
Neal & Harwell, PLC
1201 Demonbreun Street, Ste. 1000
Nashville, TN 37203
(615) 244-1713 – Telephone

Dated: December 14, 2016

**SETTLEMENT AGREEMENT
IN TRA DOCKET NO. 16-00028
SIGNATURE PAGE**

**CONSUMER PROTECTION AND
PROTECTION DIVISION**



Herbert H. Slatery III, #090777
Attorney General and Reporter



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Dated: December 19th, 2016

**SETTLEMENT AGREEMENT
IN TRA DOCKET 16--00028
SIGNATURE PAGE**

**TENNESSEE REGULATORY
AUTHORITY STAFF, IN ITS
CAPACITY AS PARTY STAFF**

A handwritten signature in black ink, appearing to read "Jim Layman", is written over a horizontal line.

Jim Layman #30662
Tennessee Regulatory Authority
502 Deaderick St. 4th Floor
Nashville, TN 37243

Dated: December 14th, 2016

EXHIBIT A

TO SETTLEMENT AGREEMENT

PERFORMANCE BASED RATEMAKING MECHANISM RIDER**Applicability**

The Performance-Based Ratemaking Mechanism (the PBRM) replaces the reasonableness or prudence review of the Company's gas purchasing activities overseen by the Tennessee Regulatory Authority (the Authority) in accordance with Rule 1220-4-7-.05, Audit of Prudence of Gas Purchases. This PBRM is designed to encourage the utility to optimize its gas purchasing activities consistent with efficient operations and service reliability, and will provide for sharing of benefits or costs between the Company and the Company's customers. Each plan year will begin April 1. The annual provisions and filings herein will apply to this annual period. The PBRM will continue until it is either (a) terminated at the end a plan year by not less than 90 days' notice by the Company to the Authority or (b) modified, amended or terminated by the Authority.

Overview of Structure

The Performance-Based Ratemaking Mechanism consists of four parts;

- A. Gas Procurement Incentive Mechanism
- B. Capacity Management Incentive Mechanism
- C. Avoided Cost Incentive Mechanism
- D. Off System Sales Revenue Incentive Mechanism

Gas Procurement Incentive Mechanism

The Gas Procurement Incentive Mechanism (the GPIM) establishes a predefined benchmark index to which the Company's commodity cost of gas is compared. It also addresses the use of financial instruments or private contracts in managing gas costs. For commodity costs, on a monthly basis, the Company will compare its commodity cost of gas to the appropriate benchmark amount. The benchmark amount will be computed by multiplying actual purchase quantities for the month, including quantities purchased for injection into storage, by the appropriate price index. For monthly baseload purchases, the price index will be the appropriate *Inside FERC Gas Market Report* first of the month price for that particular month. For incremental swing purchases, the published *Platts's Gas Daily daily mid-point price* for the business day of gas flow will be used as the index. The net incentive benefits or costs from the GPIM will be shared between the Company's customers and the Company on a 75%/25% basis.

Capacity Management Incentive Mechanism

The Capacity Management Incentive Mechanism (the CMIM) is designed to encourage the Company to market off-peak unutilized transportation and storage capacity on upstream pipelines in the secondary market. It includes all credits the Company receives through its transportation invoice from the release of portions of its transportation contracts via pipelines' electronic bulletin boards/customer activity websites. Net incentive benefits or costs from capacity release will be shared between the Company's customers and the Company on a 75%/25% basis. It also addresses the sharing of asset management fees paid by asset managers, and other forms of compensation received by the Company for the release and/or utilization of the company's transportation and storage assets by third-parties. The net incentive benefits from asset management fees will be shared between the Company's customers and the Company on a 90% /10% basis.

Avoided Cost Incentive Mechanism

The Avoided Cost Incentive Mechanism (the ACIM) is designed to encourage the Company to explore ways to reduce upstream fixed and variable capacity costs associated with the transportation of gas commodity. Avoided cost can be accomplished through delivered service, transportation discounts obtained directly with the pipeline, indirectly through the acquisition of discounted released capacity, through variation from the Benchmark Path, or through the acquisition of seasonal capacity that avoids year round demand charges. Avoided Cost equals, on an annual basis, Total Benchmark Transportation Cost less Total Actual Transportation Cost. Total Benchmark Transportation Cost equals the total demand and variable transportation costs to purchase transportation services for the Company's peak day requirement plus reserve margin at tariff max rates using the Benchmark Path. The initial Benchmark Path is the path followed by Atmos Energy's current contracts and is set-forth in the Settlement Agreement in Docket No. 16-00028. If Atmos Energy changes the path or capacity on any of the contracts that form the Benchmark Path, then one year from the effective date of the change the path and capacity from the new contract will become part of the Benchmark Path. During that one year period, savings will be determined by comparing the actual transportation cost of the new contract with the cost using the path for the old contract (priced at published FERC tariff max rates for the old contract's path); provided, however, that if the total capacity of the new contract exceeds that of the old contract, then the old contract's path will be used for comparison only up to the capacity of the old contract, and above that the new contract's path will be used for comparison. Following that one year period, savings on the new contract will be determined by comparing the actual transportation cost for the new contract against the cost for the new contract's path and capacity priced at published FERC tariff max rates. The capacity amounts in the Benchmark Path may be adjusted by the Company to account for any change in the Company's peak day requirement plus reserve margin, with such changes to be filed no later than 60 days after such adjustment. Resulting changes to the Benchmark Path shall become effective coincident with the effective date of the incremental transportation agreement; and the actual path and capacity of the incremental transportation agreement will become part of the Benchmark Path. Total Actual Transportation Cost equals the Company's actual annual total demand and variable transportation costs. For avoidance of doubt, whenever savings are calculated under the ACIM, the benchmark price used for comparison will always be the published FERC tariff max rate. Net savings under this mechanism shall be shared between the Company's customers and the Company on an 85%/15% basis.

Off-system Sales Revenue Incentive Mechanism

The Off-system Sales Revenue Incentive Mechanism (the OSIM) is designed to encourage the Company to generate revenue from off-system sales of excess natural gas commodity. Off-system sales occur after the gas requirements of Atmos' sales customers have been met and include direct sales of gas to third parties who are not subject to gas cost adjustment under the Purchased Gas Adjustment Clause in the Company's tariff. Net Margin on such off-system sales will be defined as the difference between the sales proceeds and the total variable costs incurred by the Company in connection with the transaction, including transportation and gas costs, taxes, fuel or other costs. For this calculation, in computing gas costs the Company will impute such costs for its related supply purchases at the benchmark first-of-the-month or daily index, as appropriate, on the pipeline and in the zone in which the sale takes place. Net Margin will be shared between the Company's customers and the Company on a 75%/25% basis.

Affiliate Transactions

The following guidelines present the minimum conditions deemed necessary to ensure that affiliate transactions between the Company and its affiliate(s) do not result in a competitive advantage over others providing similar services. These guidelines will remain in effect as long as the Company is operating under a performance based ratemaking plan. These guidelines may fail to anticipate certain specific methods by which such advantages may be conferred by the Company on its marketing affiliates. All Parties should be aware that to the extent such instances arise in the future, they will be judged according to this stated intent.

Definitions:

Terms used in these guidelines have the following meanings:

1. Affiliate, when used in reference to any person in this standard, means another person who controls, is controlled by, or is under common control with, the first person.
2. Control (including the terms "controlling", "controlled by", and "under common control with"), as used in this standard, includes, but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct or cause the direction of the management or policies of a company. Under all circumstances, beneficial ownership of more than ten percent (10%) of voting securities or partnership interest of an entity shall be deemed to confer control for purposes of these guidelines of conduct.
3. Marketing, as used in this standard, means selling or brokering natural gas to any person or entity, including the Company, by a seller that is not a local distribution company.

Standards of Conduct:

The Company must conduct its business to conform to the following standards:

1. If there is discretion in the application of tariff provisions, then the Company must apply such provisions relating to any service being offered in a consistent manner to all similarly situated entities.
2. The Company must strictly enforce a tariff provision for which there is no discretion in the application of the provision.
3. The Company must process all similar requests for services in the same manner and within the same period of time.
4. The Company may not give its marketing affiliate preference over nonaffiliated companies in natural gas supply procurement activities.
5. The Company may not give its marketing affiliate preference over nonaffiliated companies in its upstream capacity release activities.

6. The Company may not disclose to its marketing affiliate any information that the local distribution company receives from a non-affiliated marketer, unless the prior written consent of the parties to which the information relates has been voluntarily given.
7. To the extent the Company provides information related to its natural gas supply activities and upstream capacity release activities, it must do so contemporaneously to all nonaffiliated marketers that have submitted a written request for such information to the Company.
8. To the extent the Company provides information related to natural gas services being offered to a marketing affiliate, it must do so contemporaneously to all non-affiliated marketers that have submitted a written request for such information to the Company.
9. In transactions that involve either the purchase or receipt of information, assets, goods or services by the Company from an affiliated entity, the Company shall document both the fair market price of such information, assets, goods, and services and the fully distributed cost to the Company to produce the information, assets, goods or services for itself.
10. When the Company purchases information, assets, goods or services from an affiliated entity, the Company shall either obtain competitive bids for such information, assets, goods or services or demonstrate why competitive bids were neither necessary nor appropriate.
11. To the maximum extent practicable, the Company's operating employees and the operating employees of its marketing affiliate must function independently of each other. For the purposes of these guidelines, operating employees are those who are in any way involved in identifying and contracting with customers, locating gas supplies, making any and all arrangements with intervening pipelines and in any way managing or facilitating those contracted services.
12. The Company must maintain its books of accounts and records separately from those of its affiliate.
13. If the Company offers a discount to an affiliated marketer, it must make a comparable offer contemporaneously available to all similarly situated non-affiliated marketers.
14. The Company may not condition or tie its agreement to release its dedicated, stored, inventoried or optioned gas or supply contracts or upstream transportation and storage contracts to an agreement with a producer, customer, end-user or shipper relating to any service by its marketing affiliate, any services offered by the Company on behalf of its marketing affiliate, or any services in which its marketing affiliate is involved.
15. Prearranged, non-posted, capacity release transactions may not be entered into with any affiliate of the Company in any two consecutive thirty-day periods.
16. The Company must maintain a written log of tariff provision waivers which it grants. It must provide the log to any person requesting it within 24 hours of request. Any waivers must be granted in the same manner to the same or similar situated persons.

17. The Company shall maintain sufficiently detailed records that compliance with these guidelines can be verified at any time.

Complaints:

Any party may file a complaint relating to violations of these guidelines.

1. Any customer, marketer, or other interested third-party may file a complaint with the Authority relating to alleged violations of the affiliate standards set forth in these guidelines. At or before the time of filing, the complainant shall serve a copy of the complaint on the Company.
2. Within 10 business days of service of the complaint upon the Company, the Company shall file a written response to the complaint with the Authority with a simultaneous copy provide to the Consumer Advocate..
3. The Authority may hold hearings on any complaint filed or may take such other action (as it may deem appropriate), including requesting further information from the parties or dismissing the complaint. The Consumer Advocate may participate in these hearings should it so elect.
4. After notice and opportunity for a hearing, should the Authority find that the Company has violated the standards contained in these guidelines, the Authority may impose any penalty or remedy provided for by law.

RFP Procedures for Selection of Asset Manager and/or Gas Provider

1. In each instance in which Company intends to engage the services of an asset manager to provide system gas supply requirements and/or manage its assets regulated by the TRA, the Company shall develop a written request for proposal (RFP) defining the Company's assets to be managed and detailing the Company's minimum service requirements. The RFP shall also describe the content requirements of the bid proposals and shall include procedures for submission and evaluation of the bid proposals.
2. The RFP shall be advertised twice in a 30 day period as part of a systematic notification process. This 30 day minimum period may be shortened with the written consent of the TRA Staff and Consumer Advocate to a period of not less than 15 days.
3. The procedures for submission of bid proposals shall require all initial and follow-up bid proposals to be submitted in writing on or before a designated proposal deadline. The Company shall not accept initial or follow-up bid proposals that are not written, or that are submitted after the designated proposal deadline. Following receipt of initial bid proposals, and on a non-discriminatory basis, the Company may solicit follow-up bid proposals in an effort to obtain the most overall value for the transaction.

4. All initial and follow-up bid proposals shall be evaluated as they are received. The criteria for choosing the winning bid proposal shall include, at a minimum, the following: (a) the total value of the bid proposal to customers; (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. The winning bid proposal shall be the one with the best combination of attributes based on the evaluation criteria. If, however, the winning bid proposal is lower in amount than any other initial or follow-up bid proposal(s), the Company shall explain in writing to the TRA why it rejected each higher bid proposal in favor of the lower winning bid proposal. The Company shall maintain records demonstrating its compliance with the evaluation and selection procedures set forth in paragraph 4 above.
5. An incumbent asset manager shall not be granted an automatic right to match a winning bid proposal. If the incumbent asset manager desires to continue its asset management relationship with the Company after expiration of its asset management agreement, it shall submit a written bid proposal in accordance with the Company's RFP procedures. The bid proposal shall be evaluated pursuant to the procedures set forth in paragraph 4 above.
6. The Company may develop additional procedures for asset management selection as it deems necessary and appropriate so long as such procedures are consistent with the agreed-upon procedures described herein.
7. The Company shall file a Petition seeking TRA approval of its compliance with these procedures no later than December 1 of each year, for agreements to be implemented effective the following April 1.
8. The Company shall retain all RFP documents and records for at least 4 years and such documents and records shall be subject to the review and examination of the TRA staff and the Consumer Advocate staff. The Asset Manager shall maintain documents and records of all transactions that utilize the Company's gas supply assets. All documents and records of such transactions shall be retained for two years after termination of the agreement and shall be subject to review and examination by the Company, the Consumer Advocate and the TRA Staff.

Reserve Margin

The Company may maintain a reserve of natural gas in excess of its projected peak day requirement and recover the cost of the reserve from their customers through the purchased gas adjustment (PGA). The projected peak day requirement shall be based upon the coldest day on record since 1970. All firm peak day capacity contracted for by the Company shall be considered as gas available to meet peak day demand. "Contract demand" shall be the amount of firm peak day capacity the Company is entitled to on a daily basis, pursuant to contract. The maximum peak day firm demand of the projected heating season shall form the base period demand to establish the Company's maximum peak day firm demand. A reserve margin of 7.5% or less in excess of the base period firm demand adjusted for specific gain or loss of customers and/or throughput on a specific case by case basis will be presumed reasonable.

All capacity available to meet the peak day demand in excess of an amount needed to meet the base period peak day demand plus a 7.5% reserve margin must be shown by the Company to be necessary to meet its customers' requirements before it can be included in the PGA. All capacity available to meet demand less than an amount of base period demand plus a 7.5% reserve margin is presumed to be reasonable unless a factual showing to the contrary is made.

Determination of Shared Savings

Each month during the term of the PBRM, the Company will compute any savings or costs in accordance with the PBRM. If the Company earns any savings, a separate below the line Incentive Plan Account (IPA) will be debited with such savings. If the Company incurs any costs, that same IPA will be credited with such costs.

Interest shall be computed on balances in the IPA using the same interest rate and methods as used in the Company's Actual Cost Adjustment (ACA) account. The offsetting entries to IPA savings or costs will be recorded to income or expense, as appropriate.

Savings or costs accruing to the Company under the PBRM will form the basis for a rate increment or decrement to be filed and placed into effect separate from any other rate adjustments to recover or refund such amount over a prospective twelve-month period. Total annual (April 1 through March 31) savings shall be capped at \$2 million. For the avoidance of doubt, such net savings or costs shall not be included as revenue or costs in connection with, or otherwise impact the operations of, the Company's Annual Review Mechanism Tariff; provided, however, that this provision shall not limit consideration of any issue in the Company's next (or any subsequent) general rate case proceeding.

Each year, effective July 1, the rates for all sales customers will be increased or decreased by a separate rate increment or decrement designed to amortize the collection or refund of the March 31 IPA balance over the succeeding twelve month period. The rate increment or decrement will be established by dividing the March 31 IPA balance by the appropriate sales billing determinants for the twelve months ended March 31. During the twelve-month amortization period, the amount collected or refunded each month will be computed by multiplying the sales billing determinants for such month by the rate increment or decrement, as applicable. The product will be credited or debited to the IPA, as appropriate. The balance in the IPA will be tracked as a separate collection mechanism. Each July 1 the unamortized amount of the previous year's IPA balance will be trued-up in the new rate increment or decrement.

Filing with the Authority

The Company will file calculations of shared savings and shared costs quarterly with the Authority and a simultaneous copy to the Consumer Advocate not later than 60 days after the end of the quarter and will file an annual report not later than May 31. The Company will file calculations annually to verify the reasonableness of its reserve margin.

Review Process

A comprehensive review of the transactions and activities covered by this PBR Tariff shall be conducted by an outside independent consultant. The next such review shall begin in September 2021, with the consultant's final report to be completed by July 1, 2022. Subsequent reviews shall be completed every 3 years thereafter unless otherwise ordered by the TRA.

The consultant shall be selected as follows. The TRA Staff, the Consumer Advocate, and Atmos shall make an effort to maintain a list of no less than 5 mutually agreeable independent consultants or consulting firms qualified to conduct the aforementioned initial review. Any dispute concerning whether an independent consultant shall be added to the list shall be resolved by the TRA Staff, after consultation with Atmos and the Consumer Advocate. For the review, the TRA Staff shall select 3 prospective independent consultants from that list. Each such consultant shall possess the experience and expertise necessary to conduct the initial review. The TRA Staff shall provide the list of prospective independent consultants to Atmos and the Consumer Advocate via electronic mail. Atmos and the Consumer Advocate shall each have the right, but not the obligation, to eliminate 1 of the prospective independent consultants from the list by identifying the consultant to be eliminated in writing to the TRA Staff within 30 days from the date the list is e-mailed. The TRA Staff shall select the independent consultant from those remaining on the list after Atmos's and the Consumer Advocate's rights to eliminate have expired. The cost of the review shall be reasonable in relation to its scope. Any and all relationships between the independent consultant and Atmos, the TRA Staff and/or the Consumer Advocate shall be fully disclosed and the independent consultant shall have had no prior relationship with either Atmos, the TRA Staff, or the Consumer Advocate for at least the preceding 5 years unless Atmos, the TRA Staff and Consumer Advocate agree in writing to waive this requirement. The TRA Staff, the Consumer Advocate and Atmos may consult amongst themselves during the selection process; provided, however, that all such communications between the Parties shall be disclosed to each Party not involved in such communication in advance so that each Party may participate fully in the selection process.

The scope of the review may include all transactions and activities covered by this PBR Tariff, and such additional matters as may be reasonably identified by Atmos, the TRA Staff, or the Consumer Advocate.

Atmos, the TRA Staff, or the Consumer Advocate may present documents and information to the independent consultant for the independent consultant's review (and subsequent reviews) and consideration. Copies of all such documents and information shall be presented simultaneously to the independent consultant and all other Parties.

The independent consultant shall complete and issue a written report of its findings and conclusions by the date ordered by the TRA. The report deadlines may be waived by the written consent of the TRA Staff, Atmos, and the Consumer Advocate. The independent consultant shall make findings of fact, as well as identify and describe areas of concern and improvement, if any, that in the consultant's opinion warrant further consideration. Atmos, the TRA Staff, and/or the Consumer Advocate may cite the independent consultant's report to the Authority in support of recommendations or proposed changes, and the TRA Staff, Atmos, or the Consumer Advocate may support or oppose such recommendations or proposed changes.

The independent consultant's findings and/or recommendations shall not be binding on any Party or on the Authority, and in any proceeding in which the consultant's findings or recommendations may be considered, the Authority shall give all issues *de novo* consideration. Any changes to the Asset Management Agreement, the bidding process, the assets under management, or otherwise, whether adopted by agreement or pursuant to a ruling of the Authority, shall be implemented on a prospective basis only, and following the normal expiration of any affected agreements.

The reasonable and prudent cost of the independent consultant's review shall be paid initially by Atmos and recovered through the ACA account. In any subsequent proceeding in which discovery or testimony from the consultant is sought concerning the consultant's review or findings, reasonable and prudent fees paid to the consultant for such discovery or testimony shall similarly be paid initially by Atmos and recovered through the ACA account. The TRA Staff may continue its annual audits of the performance-based ratemaking (PBR) and the Annual Cost Adjustment (ACA) account, and the review shall not in any way limit the scope of such annual audits.