

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

September 29, 2023

IN RE:)
)
ATMOS ENERGY CORPORATION) **Docket No. 22-00046**
INCENTIVE PLAN ACCOUNT (IPA) AUDIT)

**NOTICE OF FILING BY UTILITIES DIVISION OF
THE TENNESSEE PUBLIC UTILITY COMMISSION**

Pursuant to Tenn. Code Ann. §§ 65-4-104, 65-4-111 and 65-3-108, the Utilities Division of the Tennessee Public Utility Commission (“TPUC” or the “Commission”) hereby gives notice of its filing of the Atmos Energy Corporation (hereafter the “Company”) Incentive Plan Account (hereafter “IPA”) Audit Report in this docket and would respectfully state as follows:

1. The present docket was opened by the Commission to hear matters arising out of the audit of the Company’s IPA for the period April 1, 2021 through March 31, 2022.

2. The Company’s Incentive Plan filing was received on May 31, 2022, and the Audit Staff (“Staff”) completed its audit of the same on September 25, 2023. The original 180-day deadline for completion of the audit of Atmos Energy Corporation was extended on several occasions, lastly to October 30, 2023, by mutual consent of Company and the TPUC Audit Staff as provided for in the Purchased Gas Adjustment Rule 1220-4-7-.03(2).

3. The Audit Report is attached hereto as Exhibit A and is fully incorporated herein by this reference.

4. The Utilities Division hereby files its Report with the Tennessee Public Utility Commission for deposit as a public record and approval of the same.

Respectfully Submitted:

A handwritten signature in cursive script that reads "Emily Qingshe".

Emily Qingshe, Audit Manager
Utilities Division of the
Tennessee Public Utility Commission

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of September 2023, a true and exact copy of the foregoing has been either hand-delivered or delivered via U.S. Mail, postage pre-paid, to the following persons:

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Chair
Tennessee Public Utility Commission
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Emily Qingshe

COMPLIANCE AUDIT REPORT
OF
ATMOS ENERGY CORPORATION
INCENTIVE PLAN ACCOUNT
DOCKET NO. 22-00046

PREPARED BY
TENNESSEE PUBLIC UTILITY COMMISSION
UTILITIES DIVISION
September 2023

EXHIBIT A

**TENNESSEE PUBLIC UTILITY COMMISSION’S
COMPLIANCE AUDIT
of
ATMOS ENERGY CORPORATION
INCENTIVE PLAN ACCOUNT**

DOCKET NO. 22-00046

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I. INTRODUCTION AND AUDIT OPINION

The subject of this compliance audit is the Performance Based Ratemaking Mechanism Rider (hereafter “PBRM”, “Incentive Plan” or “IPA”) of Atmos Energy Corporation (hereafter “Atmos” or the “Company”). The Tennessee Public Utility Commission (hereafter the “Commission” or “TPUC”)¹ Audit Staff’s (“Staff”) objective in this audit was to determine whether the balance in the Incentive Plan Account (IPA Account) as of March 31, 2022 was calculated in conformance with the terms of the Incentive Plan and to verify that the factors utilized in the calculations were supported by appropriate source documentation. The IPA addresses sharing incentives with respect to the Company’s gas procurement and capacity management activities, which are more fully described in Section II below. After reviewing the Company’s filing, Staff found no material errors. Staff therefore concludes that, during the plan year under review, the Company correctly calculated the benefits accruing to Atmos and the ratepayers under the Incentive Plan.

II. BACKGROUND AND DESCRIPTION OF PERFORMANCE INCENTIVE PLAN

On March 31, 1997, United Cities Gas Company² filed a petition with the Tennessee Regulatory Authority (“Authority”), requesting that its experimental Incentive Plan be approved on a permanent basis. After the Consumer Advocate and Protection Division of the Attorney General’s Office (“Consumer Advocate” or “CAPD”) intervened, the Authority ordered on May 20, 1997 that a contested case be convened in Docket No. 97-01364. The case was heard in two phases, Phase One on March 26 and 27, 1998 and Phase Two on March 27 and 31, 1998.

The Authority issued its Phase I Order on January 14, 1999 and its Phase II Order on August 16, 1999. The Phase II Order authorized United Cities to continue operating under a modified Incentive Plan. The Incentive Plan automatically rolls over for an additional plan year on each April 1st, beginning April 1, 1999, and continues until the Incentive Plan is either (a) terminated at the end of a plan year by not less than 90 days notice by Atmos to the Authority or (b) modified, amended or terminated by the Authority.

The Incentive Plan consisted of two mechanisms: (1) the Gas Procurement Incentive Mechanism, and (2) the Capacity Management Incentive Mechanism. Under the **Gas Procurement Incentive Mechanism**, Atmos retained 50% of the savings on gas purchased below 97.7% of a pre-determined index. Should the Company purchase gas above 102% of the same pre-determined index, the Company was penalized for 50% of the excess. The computations of savings/(losses) were made on a monthly basis. The lower end of the deadband (the range within which no savings or losses are computed), would be readjusted at the end of every three-year period based on the most recent audited results. The **Capacity Management Incentive Mechanism** encouraged the Company to market off-peak unutilized transportation and storage capacity. The associated savings were shared by the ratepayers and the Company on

¹ As of April 5, 2017, the name of Tennessee Regulatory Authority has changed to the Tennessee Public Utility Commission and board members of the agency will be known as Commissioners rather than Directors.

² On September 4, 2002, the Company filed tariffs to officially change its name from United Cities Gas Company to Atmos Energy Corporation. Tariff Filing No. 2002-0967.

a 90/10 basis. **Interest** was accrued on the outstanding monthly balance in the Incentive Plan Account using the same computation that is provided for in the Authority's Purchased Gas Adjustment Rule 1220-4-7-.03(vii).³ Total annual savings accruing to Atmos was capped at \$1.25 million.

On September 26, 2007, the Authority opened Docket 07-00225 to evaluate Atmos' gas purchases, asset management activities and related sharing mechanisms. The proposed *Stipulation and Settlement Agreement* ("Settlement") was filed for approval on May 7, 2013. The Settlement provided for a triennial comprehensive review of the Company's capacity planning and gas purchasing activities as encompassed in the Incentive Plan by an independent consultant. The first review commenced in the fall of 2014. Subsequent reviews, if necessary, shall be conducted at the order of the Authority. The Settlement was approved by the Directors at a regularly scheduled Authority Conference on June 17, 2013.

On August 13, 2013, Atmos filed a petition in Docket No. 13-00111 to eliminate the re-setting of the lower end of the deadband from its tariff.⁴ The panel of Directors voted to deny Atmos' request to eliminate the three-year resetting of the deadband at its regularly scheduled Authority Conference on June 16, 2014. The panel, however, further ordered that the lower end of the deadband remain at 97.4% for the next three years or until March 2017, so that the Authority would have the benefit of the independent consultants' report in the triennial review, before considering this structural change to the Incentive Plan. The triennial review process commenced in the fall of 2014 and the final audit report was filed in Docket No. 07-00225 on September 18, 2015. The final audit report included recommended structural changes to the Company's PBRM tariff. On March 15, 2016, Atmos filed a petition in Docket No. 16-00028 for approval of revisions to the Company's PBRM tariff, based on recommendations in the independent consultant's report.⁵

A contested case was convened in Docket No. 16-00028 and a Hearing Officer appointed on April 14, 2016. The Consumer Advocate and Protection Division of the Office of Attorney General ("Consumer Advocate") was granted intervention on April 20, 2016. On May 25, 2016, a memorandum was filed notifying the Authority that a portion of the Utilities Division Staff had been segregated as Party Staff in this proceeding. On December 20, 2016, after extensive discussions and negotiations, the Company, CAPD and TPUC Party Staff filed a joint request for approval of a proposed Settlement Agreement ("Agreement"). At the January 17, 2017 TPUC Conference, the voting panel assigned to this docket approved the Agreement as filed by the parties.

³ *In RE: Application of United Cities Gas Company to Establish an Experimental Performance – Based Ratemaking Mechanism*, TRA Docket Nos. 95-01134 and 97-01364, *Final Order on Phase Two*, p.28, paragraph 12 (August 19, 1999).

⁴ *In Re: Petition of Atmos Energy Corporation to Revise Performance Based Ratemaking Mechanism Rider in Tariff*, Docket No. 13-00111, (August 13, 2013)

⁵ *In Re: Petition of Atmos Energy Corporation to Revise Performance Based Ratemaking Mechanism Tariff*, Docket No. 16-00028, (March 15, 2016)

The revised PBRM Tariff (“New Tariff”) became retroactively effective April 1, 2016. This tariff replaces the old PBRM Tariff (“Old Tariff”). The modifications and improvements to the Old Tariff include the following:

1. Divide the Tariff into four general sections: Gas Procurement Incentive Mechanism (GPIM), Capacity Management Incentive Mechanism (CMIM), Avoided Cost Incentive Mechanism (ACIM) and Off-system Sales Revenue Incentive Mechanism (OSIM);
2. For the ACIM, compare the Company’s actual performance to an agreed benchmark gas transportation path, priced at published FERC tariff max rates;
3. Change sharing percentages as follows: GPIM 75%/25%, CMIM 75%/25%, ACIM 85%/15%, OSIM 75%/25%, and Asset Manager up-front fees 90%/10%;
4. Change the overall annual incentive cap to \$2 million;
5. Eliminate the dead-band under GPIM;
6. Exclude NYMEX futures price index from the benchmark calculations under the PBRM;
7. Implement a triennial review of the IPA process by an outside consultant beginning in the September of 2021⁶;
8. Add definitional language to OSIM;
9. Change the date of the IPA rate adjustment filing to May 31 of each year, with the new rates to become effective July 1;
10. Expand the tariff language in the section RFP procedures for the selection of an asset manager and/or gas provider to include the deadline date of December 1 of each year for the Company to file a Petition seeking TPUC approval of the Company’s compliance with the tariff procedures.⁷

A copy of the new tariff is attached to this report as **Attachment 1**.

III. JURISDICTION OF TENNESSEE PUBLIC UTILITY COMMISSION

Tennessee Code Annotated (hereafter “T.C.A.”) gave jurisdiction and control over public utilities to the Tennessee Regulatory Authority, now the Tennessee Public Utility Commission. T.C.A. § 65-4-104 states:

The Authority has general supervisory and regulatory power, jurisdiction, and control over all public utilities, and also over their property, property rights, facilities, and franchises, so far as may be

⁶ According to the terms of the triennial review provision, Exeter Associates, Inc was awarded the contract. The final audit report will be filed in Docket No. 16-00028.

⁷ In Commission Docket No. 21-00104, Atmos successfully petitioned to remove the section of its PBRM tariff related to RFP Procedures for the Selection of Asset Manager and/or Gas Provider. Since Atmos sold its gas marketing affiliate and has no plans currently to acquire another affiliated marketing entity, the Commission agreed that the protections provided by the RFP Procedures are no longer necessary. Atmos, therefore, is no longer required to file its RFP to select an asset manager with the Commission for prior approval.

necessary for the purpose of carrying out the provisions of this chapter.

Further, T.C.A. § 65-4-105 grants the same power to the Authority with reference to all public utilities within its jurisdiction as chapters 3 and 5 of Title 65 of the T.C.A. has conferred on the Department of Transportation's oversight of the railroads or the Department of Safety's oversight of transportation companies. By virtue of T.C.A. § 65-3-108, said power includes the right to audit:

The department is given full power to examine the books and papers of the said companies, and to examine, under oath, the officers, agents, and employees of said companies...to procure the necessary information to intelligently and justly discharge their duties and carry out the provisions of this chapter and chapter 5 of this title.

The Commission's Utilities Division is responsible for auditing those companies under the Commission's jurisdiction to ensure that each company is abiding by the rules and regulations of the TPUC. This audit was performed by Emily Qingshe and Aisha Salem of the Utilities Division.

IV. AUDIT SCOPE

The IPA audit is a compliance audit of the Company's Incentive Plan Account.⁸ The audit goal is to verify that the Company's calculations of incentive gains and losses are materially correct,⁹ and that the Company is in compliance with all terms of its tariff and following all Commission orders and directives with respect to its calculation of the IPA Account balance.

To accomplish the audit goal, Staff reviewed the Company's tariff, gas supply invoices, pipeline tariffs, supplemental schedules and other source documentation provided by Atmos, and industry publications to verify the indexes used to calculate the benchmarks, as well as prior Staff audits and Commission Orders. Where needed, Staff contacted the Company to obtain additional information to clarify the filing.

⁸ See Attachment 1, TRA No. 1, 4th Revised Sheet No. 45. 7.

⁹ The audit goal is not to guarantee that the Company's results are 100% correct. Where it is appropriate, Staff utilizes sampling techniques to determine whether the Company's calculations are materially correct. Material discrepancies would dictate a broadening of the scope of Staff's review.

V. ACTUAL PLAN YEAR RESULTS

According to the Company's annual report, the Incentive Plan generated \$12,420,906 in total incentive savings. Of this amount, \$10,420,906 benefited the ratepayer and \$2,000,000.00 was retained by Atmos. Adding the under-recovered balance from the previous audit period and accrued interest on the monthly balances, and subtracting the surcharges recovered from customers during the audit period, resulted in an **under-recovered balance** in the IPA Account at March 31, 2022 of **\$1,999,723.46**. On May 31, 2022, Atmos filed tariffs¹⁰ to begin surcharging this amount over the next twelve (12) months, effective July 1, 2022.

The following chart summarizes the incentive Savings (Losses) obtained in the current period of the Incentive Plan, **as presented in the Company's report:**

	Year Ended
	<u>3/31/2022</u>
Total Incentive Savings (Losses) from:	
Gas Procurement Incentive Mechanism	\$ 3,528,803.11
Capacity Management Incentive Mechanism	630,574.13
Avoided Cost Incentive Mechanism	8,261,528.65
Off-system Sales Revenue Incentive Mechanism	-
<u>Total Incentive Savings</u>	<u>\$ 12,420,905.89</u>
Incentive Savings (Losses) retained by Ratepayers:	
Gas Procurement Incentive Mechanism	\$ 2,715,702.29
Capacity Management Incentive Mechanism	486,316.31
Avoided Cost Incentive Mechanism	7,218,887.29
Off-system Sales Revenue Incentive Mechanism	-
<u>Total Incentive Savings</u>	<u>\$ 10,420,905.89</u>
Incentive Savings (Losses) retained by Company*:	
Gas Procurement Incentive Mechanism	\$ 813,100.82
Capacity Management Incentive Mechanism	144,257.82
Avoided Cost Incentive Mechanism	1,042,641.36
Off-system Sales Revenue Incentive Mechanism	-
<u>Total Incentive Savings</u>	<u>\$ 2,000,000.00</u>

* Total annual savings accruing to Atmos is capped at \$2 million.

¹⁰ Tariff No. 2022-0028 for Union City and Tariff No. 2022-0029 for other Tennessee towns.

VI. IPA AUDIT FINDINGS

Staff reviewed the gas purchasing activities of Atmos to determine whether the Company correctly calculated the amount of gains and losses under its Incentive Plan and whether it complied fully with the terms of its tariff for the audit review period of April 1, 2021 to March 31, 2022. Staff agrees with the IPA Account balance as calculated by the Company. Therefore, there are no findings. A summary of the account as filed by the Company is shown below.

SUMMARY OF THE IPA ACCOUNT:

	<u>Company</u>
Under-recovered IPA Account Balance at 3/31/22	\$ 2,065,753.56
Plus Total Incentive Savings Accruing to Atmos	2,000,000.00
Minus Amount Recovered from Customers (4/1/21-3/31/22)	<u>2,141,563.74</u>
 Equals IPA Balance Before Interest	 \$1,924,189.82
Plus Interest Calculated on Monthly Balances	<u>75,533.64</u>
Equals IPA Account Balance at 3/31/22	<u>\$1,999,723.46</u>

VII. AUDIT CONCLUSIONS AND RECOMMENDATIONS

Atmos has correctly calculated its share of savings under its Performance Based Ratemaking Mechanism Rider ¹¹ for the plan year ended March 31, 2022. The balance in the IPA Account as of March 31, 2022 is \$1,999,723.46. This balance will serve as the beginning balance for the next audit period April 1, 2022 through March 31, 2023. **Staff requests the Commission's approval of the Company's IPA Account balance.**

¹¹ See Attachment 1, TRA No. 1, 4th Revised Sheet No. 45. 1.

ATTACHMENT 1

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.