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August 31, 2010

VIA UPS NEXT DAY AIR SAVER

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

RECEIVED

SEP 01 2010

PUBLIC SERVICE
COMMISSION

Re: Case No. 2010-00146

Dear Mr. Derouen:

Enclosed for filing in the above-captioned matter with the Commission are the original and ten (10) copies of Stand Energy Corporation's Motion To Compel Data Request Responses from Atmos Energy Corporation.

Thank you for your prompt attention to this filing. If you have any questions about this filing, please contact me at (513) 621-1113.

Sincerely,

John M. Dosker
General Counsel

Encls.

cc: All parties of record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

SEP 01 2010

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:)
AN INVESTIGATION OF NATURAL GAS) Case No. 2010-00146
RETAIL COMPETITION PROGRAMS)

STAND ENERGY CORPORATION'S MOTION TO COMPEL RESPONSES TO DATA
REQUESTS FROM ATMOS ENERGY CORPORATION

Intervenor, Stand Energy Corporation ("Stand Energy"), by and through counsel, submits the following motion to compel discovery from Atmos Energy Corporation ("Atmos"). Stand Energy moves the Commission to compel Atmos to provide complete responses to Stand Energy's data requests issued on July 15, 2010. As grounds for this motion, Stand Energy has set out each data request at issue, each response provided by Atmos, and discussion of why the motion to compel should be granted:

Stand - All LDC's 1-1(D):

With regard to your transportation tariffs. Please answer the following:

D. During the past 12 months, please identify each day when transportation customers' deliveries provided a financial credit or system benefit to firm sales customers?

ATMOS RESPONSE: The Company objects to this question on the grounds the information requested is not maintained by the Company as part of its normal operations and to assimilate the information would be unduly burdensome.

DISCUSSION: Because the unregulated marketing company, Atmos Energy Marketing, has a stranglehold on the provision of transportation service behind the Atmos Energy Corporation regulated utility, the company is able to claim that it does not maintain the information requested by Stand. There are no competitors to provide this information to the Commission as there might be in other regulated service territories. Unfortunately, Stand Energy has no way of determining the truthfulness of this response. However, the instructions for answering, provided to Atmos with the data requests, included the following instruction:

7. If any request cannot be answered in full after reasonable inquiry, please provide the response to the extent available, state why the request cannot be answered in full, and provide any information within your knowledge concerning the description, existence, availability, and custody of any unanswered portions.

Atmos does not maintain this information? Perhaps not, but Atmos should have been able to answer the substance of the question. Otherwise, how was Atmos able to satisfy the Commission during any of its rate cases (including the one just concluded), that the costs Atmos Energy Corporation is charging Atmos Energy Marketing for no-notice balancing service off the interstate pipeline are fair charges for the services being provided?

This is just another example of how the lack of competition is harming natural gas ratepayers. With essentially only one marketer on their system - Atmos Energy Marketing, it would be a simple matter for Atmos to compare marketer deliveries to marketer customer's actual gas usage on a daily basis to determine any days in 2009 when system benefits were provided by transportation customers. Atmos prefers not to answer or discuss the issue to any extent. Atmos should be ordered to answer the question.

Stand - All LDC's 1-3:

With regard to your operations pursuant to currently approved tariffs, please respond to the following:

- A. For the past 24 months, have you waived any requirement set forth in PSC-approved tariffs for any Supplier? If so, identify any such waiver and the Supplier that received the waiver.
- B. For the past 24 months, have you waived any requirement set forth in PSC-approved tariffs for any Affiliate? If yes, identify any such waiver and the Affiliate that received the waiver.
- C. For the past 24 months, have you waived any requirement set forth in PSC-approved tariffs for any consumer? If so, identify any such waiver and the consumer that received the waiver.

ATMOS RESPONSE: The Company does not grant any customer, supplier and/or agent any preferential treatment. The Company attempts to treat all customers, suppliers and/or agents the same under similar circumstances. The Company values its relationships with its customers, suppliers and/or agents and attempts to work with them to resolve any issue that may arise. From time to time, the Company may have made exceptions to its tariffs to remedy a situation. The Company does maintain a log of such exceptions; but the Company affirmatively states that such exceptions are rare.

DISCUSSION: The question above is relevant and directly on point to the issue of favoritism and preferential treatment in an investigation of retail natural gas competition. Atmos may very well be dealing fairly with all of its customers and resolving similar situations with similar remedies. It is also possible that Atmos has been less than successful at resolving similar situations with similar remedies. The proof of all those facts is contained in the Atmos "Exception Log" which they admit to maintaining. Stand Energy requested Atmos to

"identify", as that term is defined in the instructions, all "waivers" of tariff requirements and the supplier (subpart a), Affiliate (subpart b) or consumer (subpart c) involved. Atmos made a nice, self-serving speech, then Atmos simply failed to answer the question that was asked. Atmos did not object or provide any basis for not responding. Atmos must be ordered to answer the specific questions asked by Stand Energy in 1-3(a)(b) and (c).

The next three Information Requests 1-4, 1-5, and 1-6 were all objected to by Atmos using the same objection for all three questions. Because Stand Energy's reply is similar for all three, we have incorporated the questions and discussion for convenience of review.

Stand - All LDC's 1-4:

With respect to the total gas load served by you, please respond to the following:

- A. Of the total load served by you, (i) Identify the quantity/extent of this load that is served by commodity that you obtain from any affiliate, (ii) Identify each affiliate from whom you obtain the commodity identified in (i) above; and, (ii) for the period covering the past 24 months, identify the quantity/extent of the commodity that you obtained from the Affiliate(s) identified in (ii) above.

ATMOS RESPONSE: Any supply arrangements with any vendor are confidential. In addition to the confidential nature of this question, the Company objects to this question since it does not see how any response would be relevant to retail choice programs.

DISCUSSION: See below.

Stand - All LDC's 1-5:

With regard to your relationship with an unregulated Marketing Affiliate, if any, respond to the following if they are applicable:

- A. Identify each agreement and contract document between you and your Marketing Affiliate. .
- B. Identify any written agreements and contracts that superseded or were successors to the agreement(s) Identified in (A) above.
- C. For the years 2008, and 2009, (i) Identify the total revenues generated by your Marketing Affiliate under the agreement Identified in (A) above, (ii) Identify how the revenues Identified in (i) are allocated among the recipient(s) of that revenue, (iii) for the revenues Identified in (i), categorize and Identify the nature of the transaction that generated the revenues, such as, for example, revenues from utilized pipeline capacity transactions, revenues from commodity transactions, revenues from hedges and options, etc.

ATMOS RESPONSE: *(a) Object. Please refer to the response to 1.4; (b) Object, please refer to the response to part a; (c) Object. Please refer to the response to part a.*

DISCUSSION: See below.

Stand - All LDC's 1-6:

With regard to your relationship with an "Asset Manager", if any, respond to the following if they are applicable:

- A. Identify each agreement and contract document between you and your Asset Manager.
- B. Identify any written agreements and contracts that superseded or were successors to the agreement(s) Identified in (A) above.
- C. For the years 2008, and 2009, (i) Identify both the total revenues paid to your Asset Manager and the total revenues received from your Asset Manager under the agreement Identified in (A) above, (ii) Identify how the revenues Identified in (i) are allocated among the recipient(s) of that revenue, (iii) for the revenues Identified in (i), categorize and

Identify the nature of the transaction that generated the revenues, such as, for example, revenues from utilized pipeline capacity transactions, revenues from commodity transactions, revenues from hedges and options, etc.

ATMOS RESPONSE: *(a) Object. Please refer to the response to 1.4; (b) Object, please refer to the response to part a; (c) Object. Please refer to the response to 1.5c.*

DISCUSSION FOR REQUESTS 1-4, 1-5 AND 1-6: During the Kentucky General Assembly's 2010 Regular Session, House Joint Resolution 141 was enacted and signed by Governor Steven L. Beshear on April 12, 2010. The preamble of that bill states:

. . . It is the policy of the Commonwealth of Kentucky to ensure that Kentucky natural gas customers receive reliable natural gas services at fair and reasonable rates; and

. . . In order to ensure price transparency and to create purchasing options for consumers, and with the understanding that competition is reliant upon properly structured markets supported by both regulated and competitive business entities, natural gas retail competition programs should be evaluated.

Atmos must be required to answer these direct, relevant questions. The subject matter of this proceeding is retail competition in natural gas. There is no statutory language limiting this regulatory proceeding to CHOICE. In fact, gas transportation issues, are the only competitive area of natural gas service allowed by all Kentucky natural gas utilities. The question is highly relevant to the discovery of the nature and extent of the relationship between Atmos Energy Corporation and Atmos Energy Marketing and any barriers to competition that may exist in Kentucky. Atmos must be required to answer these questions.

The responses to these data requests will yield important information in understanding the structure (but absolutely no confidential details) of Atmos' relationship with its Affiliate, which also acts as a natural gas supplier to the regulated utility, as well as the separation of functions, or lack thereof, within the Atmos gas supply function - - which is highly relevant to

the issue of "Codes of Conduct for marketers and affiliates of regulated utilities." (**Element No. 6, page 4, of the Commission's April 19, 2010 initial Order in this docket**). The request also may be relevant to the Commission inquiry into "non-discriminatory access to services offered" (**Element No. 5, page 4, of the Commission's April 19, 2010 initial Order in this docket**).

The next Information Request 1-9, had six subparts. Atmos answered 3 and objected to 3 information requests using the same objection for all three questions. Because Stand Energy's reply is similar for all three, we have incorporated the questions and discussion below for convenience of review.

Stand - Atmos 1-9:

B. How many of the transportation customers described above are supplied commodity by your unregulated Affiliate, Atmos Energy Marketing?

ATMOS RESPONSE: *(b) The Company objects to this question on the ground of relevancy and the competitively sensitive nature of the information sought.*

E. Do you allow your unregulated marketing affiliate to use reserved pipeline capacity (owned by you and paid for by your ratepayers) to deliver gas to the Transportation customers of your unregulated marketing affiliate on the Atmos system? Is the price paid by Atmos Energy Marketing discounted? If so, by how much?

ATMOS RESPONSE: *(b) Please see response to part b.*

F. Do you allow your unregulated marketing affiliate to use reserved pipeline capacity (owned by you and paid for by your ratepayers) to deliver gas to the Transportation customers of your unregulated marketing affiliate on any other local distribution system? Is the price paid by Atmos Energy Marketing discounted? If so, by how much?

ATMOS RESPONSE: *(b) Please see response to part b.*

DISCUSSION:

The requested information will help the Commission and the parties evaluate the lack of competition in the Atmos service territory and the reasons for the stranglehold on market share enjoyed by Atmos and its subsidiaries. That is one of the stated purposes of this investigatory proceeding - - to investigate competitive retail natural gas issues! There is very little competition in the Atmos service territory. This Commission has been given clear direction by the legislature. None of the information will bestow a competitive advantage or disadvantage on any party. Atmos should be ordered to respond to Stand Energy Data Requests 1-9(b)(e) and (f).

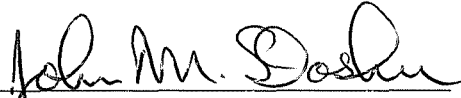
The responses to these data requests will yield important information in understanding the structure (but absolutely no confidential details) of Atmos' relationship with its Affiliate, which also acts as a natural gas supplier to the regulated utility, as well as the separation of functions, or lack thereof, within the Atmos gas supply function - - which is highly relevant to the issue of "Codes of Conduct for marketers and affiliates of regulated utilities." (**Element No. 6, page 4, of the Commission's April 19, 2010 initial Order in this docket**). The request also may be relevant to the Commission inquiry into "non-discriminatory access to services offered" (**Element No. 5, page 4, of the Commission's April 19, 2010 initial Order in this docket**).

CONCLUSION

Stand Energy's data requests to Atmos were reasonable and relevant to the subject matter of this case. Stand Energy did not request any specific customer information or any confidential or proprietary business information. There is absolutely no legitimate reason why Atmos should not be required to fully answer all of Stand Energy's data requests. The intent of this proceeding

to investigate competition in retail natural gas will not be realized otherwise.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of Stand Energy Corporation's Motion to Compel Responses to Atmos Energy Corporation were served upon the following parties of record via U.S. Mail postage prepaid on August 31, 2010.

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