

142 FERC ¶ 61,110
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

(February 13, 2013)

In Reply Refer To:
Atmos Energy Corporation
Docket No. RP13-307-000

Atmos Energy Corporation
PO Box 650205
Dallas, TX 75265-0205

Attention: Kevin C. Frank, Esquire
Attorney for Atmos Energy Corporation

Reference: Request for Temporary Waiver

Dear Mr. Frank:

1. On November 21, 2012, Atmos Energy Corporation (Atmos) filed a petition for temporary waiver of certain Commission regulations and related policies for capacity release. Atmos also seeks temporary waiver of the applicable pipeline tariff provisions of Southern Natural Gas Company, L.L.C. (Southern) and Transcontinental Gas Pipeline Corporation (Transco). Atmos states that it seeks this action to facilitate the assignment and transfer of certain natural gas transportation and storage agreements (Asset Sale) to Liberty Utilities (Georgia) Corp. (Liberty). Atmos requests that the waivers be granted no later than February 14, 2013, so that it can complete the Asset Sale on or around March 1, 2013. It also requests that the waivers remain in effect for one month following the effective date of the Asset Sale. For the reasons discussed below, and for good cause shown, the Commission grants the requested temporary waivers for the limited purpose of consummating the Asset Sale.

2. Atmos explains that pursuant to an Asset Sale and Purchase Agreement dated August 8, 2012, it has agreed to sell its natural gas distribution assets in Georgia to Liberty. Atmos states that as part of that Asset Sale, it will transfer, release, and/or assign to Liberty all of Atmos' natural gas purchase and sales agreements, natural gas

transportation and storage agreements, asset management agreements (AMAs), and financial agreements, including agreements associated with exchange-cleared transactions, over-the-counter transactions, and other financial transactions necessary to provide natural gas distribution services in Georgia.¹ Atmos requests that the waivers be granted for a limited period of one month following the effective date of the Asset Sale. Atmos states that it will provide the Commission with: (1) notice of the occurrence of the effective date of the Asset Sale; and (2) notification of any change to the list of agreements to be transferred.

3. To facilitate the transfer of the contracts, Atmos requests temporary waiver of the Commission's capacity release rules in section 284.8, including the posting and bidding requirements and restrictions on capacity releases below the maximum rate, as well as other Commission requirements and policies associated with the release of interstate natural gas transportation and storage capacity, including the shipper-must-have-title policy, the prohibition on buy/sell arrangements, and the prohibition against tying. Additionally, to the extent applicable, Atmos seeks waiver of the relevant tariff provisions of affected transportation and storage providers, including those specifying the timing of postings and the requirement of releasing rather than assigning contracts. Atmos asserts that the waivers it seeks here will be used for the limited purpose of consummating the Asset Sale to Liberty. Atmos further asserts that the requested waivers are in the public interest because they will permit the Asset Sale to occur in an orderly and efficient manner without undue disruption to existing and continuing commercial transactions.

4. Atmos argues that prior Commission orders have granted waivers for similar transactions.² Atmos states that the Asset Sale is a comprehensive commercial transaction under which it will exit the natural gas distribution business in Georgia and sell the business to an unaffiliated entity.³ Atmos notes that the State of Georgia is conducting proceedings to determine whether to permit the Asset Sale and that the sale cannot occur until it has received such approval.

¹ See Petition at Appendix A (list of 13 contracts with Southern and Transco, including the rate schedule, contract number, expiration date, maximum daily quantity and/or maximum storage quantity).

² *Atmos Energy Corp.*, 140 FERC ¶ 61,073 (2012); *Iberdrola Renewables, Inc.*, *Iberdrola Energy Services LLC*, 138 FERC ¶ 61,201 (2012); *Bear Energy LP*, 123 FERC ¶ 61,219 (2008).

³ *Sempra Energy Trading LLC*; *J.P. Morgan Ventures Energy Corp.*, 133 FERC ¶ 61,128 (2010).

5. Public notice of the filing was issued on November 23, 2012. Interventions and protests were due on or before December 3, 2012, as provided by the notice. Pursuant to Rule 214,⁴ all timely motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. No timely adverse comments or protests were filed.

6. The Commission has reviewed Atmos' request for temporary, limited waivers and finds that the request is adequately supported. Atmos has provided the information required for approval of such waivers: (1) identification of the regulations and policies for which waiver is sought; (2) identification of the pipeline service agreements and capacity to be transferred; and (3) description of the overall transaction and its claimed benefits, with sufficient detail to permit the Commission and other interested parties to determine whether granting the requested waivers are in the public interest.

7. Further, granting waiver from our capacity release regulations here is consistent with previous Commission orders. Specifically, the Commission generally waives certain capacity release regulations, to the extent necessary, to facilitate the transfer of contracts and other assets as a result of various types of corporate restructurings, including corporate mergers and sales of entire business units.⁵

8. Accordingly, for good cause shown, the Commission grants a temporary waiver of the requested regulations and policies, limited to the extent necessary to consummate the Asset Sale. In particular, the Commission waives section 284.8 of the regulations, including the bidding and maximum applicable rate requirements, the shipper-must-have-title policy, and the prohibitions on buy/sell and tying arrangements. In addition, the Commission grants, to the extent necessary, temporary and limited waiver of the specific FERC Gas Tariff provisions of Southern and Transco governing the service agreements subject to the assignment and transfer under which Liberty is presently the shipper of

⁴ 18 C.F.R. § 385.214 (2012).

⁵ See, e.g., *Macquarie Cook Energy, LLC, Constellation Energy Commodities Group, Inc.*, 126 FERC ¶ 61,160 (2009); *Distrigas of Massachusetts, LLC, GDR SUEZ Gas NA LLC*, 135 FERC ¶ 61,028 (2011).

record. This limited waiver is effective from the date of this order until one month following the effective date of the Asset Sale. Finally, Atmos shall provide notice to the Commission of the closing date of the Asset Sale within 30 days of the closing.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.