

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 9, 2003

In Reply To:
Atmos Energy Corporation
Docket No. PR03-10-000

Atmos Energy Corporation
P. O. Box 650205
Dallas, Texas 75265-0205

Attention: Douglas Walther, Senior Attorney

Reference: Informational Rate Filing

Ladies and Gentlemen:

1. On March 17, 2003, Atmos Energy Corporation (Atmos) filed cost and throughput information, in the form prescribed by Section 154.313¹ of the Commission's Regulations, in support of its current cost-based transportation rates for firm and interruptible interstate transportation service. Atmos states that this filing was made pursuant to the March 17, 2000 Order Modifying Service Area Determination and Issuing Certificate in Docket Nos. CP00-56-000 and CP00-60-000,² as effectively modified by the September 12, 2000 ruling of the United States Court of Appeals for the Sixth Circuit in Consumers Energy Company v. FERC, 228 F.3d 777 (6th Cir. 2000)(Consumers Energy).³ Atmos' existing

¹18 C.F.R. § 154.313 (2003)

²Atmos Energy Corporation, et al., 90 FERC ¶ 61,264 (2000).

³In Consumers Energy, the Court found that Natural Gas Act (NGA) Section 4 applies when the pipeline voluntarily files for a rate change. Section 5 applies when the Commission takes the initiative to require a rate change. The pipeline has the burden to support changes it proposes under Section 4. The Commission has the burden to support changes it requires under Section 5. The Court found that the Commission orders (87 FERC ¶ 61,067 (1999), reh'g, 88 FERC ¶ 61,084 (1999)) did not provide the requisite "clarity and precision" on whether the Commission was seeking to order a rate filing pursuant to Section 4 or merely an informational filing under Section 5. In light of this confusion, the Court remanded the challenged Commission orders for clarification. In an

maximum monthly firm transportation reservation rate is \$5.3858 per MMBtu, and minimum rate is \$0.0. Atmos' existing maximum interruptible transportation rate is \$0.1771 per MMBtu and minimum rate is \$0.0 per MMBtu. Atmos proposes no change to its existing rates.

2. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules and Practice and Procedure (18 CFR § 385.214). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214. No protests were filed.

3. In the March 17, 2000 order issuing Atmos its blanket certificate under Section 284.224⁴, in Ordering Paragraph (D), the Commission directed Atmos to file, within three years of the date of issuance of that order, a petition for rate approval under Section 284.123(b)(2) of the Commission's regulations⁵. In light of the Consumers Energy decision, the Commission modifies that directive herein to reflect an information filing obligation. Based on its review of the filing, the Commission accepts the cost and throughput information as supporting Atmos' existing transportation rates. This order will benefit the public by ensuring that Atmos' current and potential customers are charged just and reasonable rates for interstate transportation service.

4. Atmos is a Hinshaw pipeline exempted from the Commission's NGA jurisdiction by NGA Section 1(c). Atmos holds a blanket certificate provided by Section 284.224 of the Commission regulations to perform certain jurisdictional services without jeopardizing its Hinshaw status. Atmos owns certain intrastate transportation facilities in Southeast Missouri. Natural gas is received into the Southeast Missouri pipeline exclusively from connections with interstate pipeline facilities located within Missouri. The majority of the volumes received into the pipeline are consumed by local distribution customers within the state borders of Missouri. However, a relatively small percentage of the natural gas transported over Atmos' pipeline crosses the Arkansas border (through the facilities of Associated Natural Gas Company) for consumers within Arkansas. These interstate transportation volumes average about 3,000 MMBtu per day.

5. Based upon our review of Atmos' filing, the Commission accepts Atmos' cost and throughput information, and finds that it satisfactorily demonstrates that Atmos' existing

order on remand (94 FERC ¶ 61,287 (2001)), the Commission clarified that it was requiring Consumers (a Hinshaw pipeline) to submit data and information the Commission needed to monitor Consumers' rates in accordance with NGA Section 5.

⁴18 CFR § 284.224 (2003).

⁵18 CFR § 284.123 (b)(2) (2003).

transportation rates continue to be just and reasonable. Further, in order for the Commission to insure that Atmos' transportation rates remain just and reasonable, the Commission directs Atmos to file cost and throughput data and other information on or before March 17, 2006, sufficient to allow the Commission to determine whether any change in Atmos' transportation rates pursuant to NGA Section 5 should be ordered. This cost and throughput data should be in the form specified in Section 154.313 of the Commission regulations.

6. Atmos requests a waiver of Section 154.303(a)(1)⁶ of the Commission's regulations. Section 154.303(a)(1) provides that the last day of the base period may not be more than 4 months prior to the filing date. Since the cost and throughput information contains base period data ending September 30, 2002, and the filing date is March 17, 2003 which is beyond the 4 months period, Atmos requests waiver of the regulation. Atmos states that it does not maintain its books for the Southeast Missouri facilities separate and apart from its general corporate books, which are based on a fiscal year ending September 30. No waiver of Section 154.303 (a)(i) is required as that section only applies in the case of a Section 4 rate filing, whereas the instant filing is for information purposes only. However, for the reasons provided, we grant Atmos' request to include data ending September 30, 2002. Further, this letter order does not relieve Atmos from its obligation to file the required reports under Section 284 of the Commission's regulations.

By direction of the Commission. Commission Brownell dissenting in part with a separate statement attached.

Magalie R. Salas,
Secretary.

cc: All Parties

⁶18 C.F.R. § 154.303(a)(1) (2003).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Atmos Energy Corporation

Docket No. PR03-10-000

(Issued June 9, 2003)

BROWNELL, Commissioner, dissenting in part:

For the reasons set forth in Green Canyon Pipe Line Company, L.P., 98 FERC ¶ 61,041 (2002), I would not impose a triennial rate approval requirement on Section 311 pipelines.

Nora Mead Brownell
Commissioner