

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Atmos Energy Corporation :
 :
 : Docket No. 11- _____
Verified Petition for Expedited :
Declaratory Ruling or in the Alternative, :
Approval of Affiliated Interest :
Transaction :

VERIFIED PETITION

Atmos Energy Corporation (“*Atmos*”) hereby respectfully submits this verified petition to the Illinois Commerce Commission for expedited declaratory ruling or in the alternative, approval pursuant to the Public Utilities Act (220 ILCS §§ 5/1-101 *et. seq.*) of arrangements between Atmos and its affiliate, Atmos Energy Marketing, LLC (“*AEM*”) in connection with the release by AEM of Texas Eastern Transmission Company (“*TETCO*”) Comprehensive Delivery Service (“*CDS*”) pipeline capacity to Atmos. Atmos seeks an expedited declaratory ruling from the Commission that the transaction whereby Atmos will obtain CDS capacity on TETCO as described herein does not constitute an arrangement requiring Commission approval under Section 7-101 of the Act. Pursuant to section 200.220 of the Commission’s rules of practice (83 Ill. Adm. Code § 200.220), if the Commission should decline to issue a declaratory ruling or if its ruling should hold that the arrangement requires Commission approval, Atmos requests this filing be treated as an application for approval of an affiliated interest transaction. The evidence submitted in support of this request for declaratory ruling is identical to the evidence Atmos would submit in a filing seeking Commission approval under Section 7-101 of the Act.

The prefiled direct testimony of Rebecca M. Buchanan in support of this petition is attached hereto as **Attachment A** to this petition. In support of this petition, Atmos states as follows:

1. Atmos is a corporation duly organized and existing under the laws of the State of Texas and the Commonwealth of Virginia, with principal offices located at 1800 Three Lincoln Centre, 5430 LBJ Freeway, Dallas, Texas 75420. It is a public utility within the meaning of the Public Utilities Act. It is engaged in the business of distributing and selling natural gas in Illinois as well as in the States of Georgia, Tennessee, Virginia, Missouri, Mississippi, Iowa, Kansas, Texas, Louisiana, Colorado and Kentucky.

2. AEM is a limited liability company organized and existing under the laws of the State of Delaware. AEM is a natural gas marketing company operating primarily in the Midwest and Southeast areas of the United States. Pursuant to the Commission's order in Docket No. 00-0640, AEM is a wholly owned indirect subsidiary of Atmos. Specifically, AEM is wholly-owned by Atmos Energy Holdings, Inc. a Delaware corporation, which is a wholly-owned subsidiary of Atmos.

3. On August 1, 2011 Atmos and Liberty Energy (Midstates) Corp. ("*Liberty Energy Midstates*") filed an application in Docket No. 11-0559 seeking the Commission's approval of, among other things, the purchase of Atmos' Illinois operations by Liberty Energy Midstates pursuant to that certain Asset Purchase Agreement. The Company anticipates that the transaction at issue in this docket will occur prior to the consummation of the acquisition being considered in Docket No. 11-0559. Once that transaction occurs, AEM will no longer have Illinois affiliated interests.

4. Atmos provides natural gas distribution service to approximately 24,000 customers in five zones in Illinois. The TETCO pipeline is the only interstate pipeline that is geographically proximate to Atmos' Harrisburg service area. Guidance from Commission Staff in recent years has led Atmos to seek to acquire its own capacity on the TETCO pipeline (rather than relying on gas suppliers to provide delivered service to Harrisburg).

5. Over the past several years the Company has tried unsuccessfully to obtain permanent capacity for the Harrisburg, IL service area on TETCO. Based on Atmos' discussions with TETCO, Atmos believes that the TETCO pipeline is fully subscribed and therefore in order for Atmos to obtain capacity on the pipeline, a different holder must first release its capacity. The Company examined additional alternatives such as changing receipt and delivery points on other Atmos contracts to free up capacity to serve Harrisburg; however, these potential changes did not provide capacity to Harrisburg.

6. AEM holds capacity on numerous pipelines, including on TETCO. In 2008, Atmos obtained SS-1 bundled transportation and storage service and FT-1 transportation service on the TETCO pipeline from a transaction with AEM which the Commission approved in Docket No. 09-0365.

7. Atmos recently became aware that AEM is going to release or turn back capacity that it holds on TETCO. The capacity is winter-only CDS firm transportation service capacity. Atmos desires that AEM post this release as a pre-arranged capacity release on TETCO's electronic bidding platform, in accordance with FERC guidelines.

8. As part of the pre-arranged capacity release process, the releasing shipper, AEM, will offer the CDS capacity to be released by openly posting a Customer Notice on TETCO's auction website. The terms and conditions of the capacity release will be stated in this posting. Atmos, the prearranged replacement shipper, will initiate confirmation of the prearrangement electronically through TETCO's website. The CDS capacity will become available for bid and any party on the pipelines approved bidder list may seek to acquire the capacity by submitting a bid through TETCO's website. At the prescribed close time, TETCO will evaluate each bid to ensure it meets the requirements of release, tariff requirements and operational consideration. TETCO determines the best bid. If Atmos does not submit the best bid, it has the right as the prearranged party to match the best bid or decline the capacity.

9. TETCO will award the capacity and the winning bidder shall become the replacement shipper. AEM's contract will be terminated or amended to reflect the reduction in capacity. TETCO will issue a new contract for the capacity release to the replacement shipper.

10. The CDS capacity is 3,353 Dth/day firm winter-only transportation, having a termination date of October 31, 2012 with the option of annual renewals thereafter.

11. The CDS capacity is not bundled with storage service and no natural gas inventory will change possession.

12. Winter-only capacity means that the capacity is only available during the winter months, and therefore that the holder only need pay for demand charges related to the capacity during the months of November through March. Demand for gas is generally higher during these months.

13. Atmos believes that the winter-only CDS capacity is desirable for its operations in Illinois.

14. The CDS capacity transfer would reduce or eliminate the need for Atmos to obtain winter peaking service. In recent years, peaking service has been difficult for Atmos to obtain, with Atmos receiving few to no bids in response to its Request for Proposals (“RFPs”). Therefore the CDS capacity will give Atmos more assurance that it will have sufficient capacity to meet winter demand levels.

15. Upon Acquisition of the CDS capacity, Atmos’ reserve margin would increase beyond what Atmos considers to be an appropriate level. Therefore following the acquisition of the CDS capacity, Atmos would seek to reduce its reserve margin using methods available to it such as reducing its reliance on Gallagher Drilling, Inc. Storage. TETCO has been fully subscribed on the 24” line that runs through Illinois and the Company would have limited ability to change the capacity portfolio prior to the CDS capacity opportunity.

16. Atmos now seeks a declaratory ruling from the Commission that Section 7-101 of the Act is not applicable to the proposed arrangement for Atmos’ acquisition of TETCO capacity effective November 1, 2011. Atmos will obtain the capacity directly from TETCO at the pipeline’s FERC approved CDS tariff rate.

17. In the alternative, Atmos now seeks Commission approval to enter into a transaction with AEM for the release of AEM's TETCO capacity effective November 1, 2011. Atmos will obtain the capacity directly from TETCO at the pipeline's FERC approved CDS tariff rate.

18. Based on discussions with TETCO, Atmos believes that TETCO no longer offers contracts for winter-only firm transportation service and that the only way to obtain this type of capacity is through a capacity release of an existing contract, such as this.

19. AEM's contract with TETCO for the CDS capacity has a notification date of October 31, 2011. This means that unless the holder of the capacity renews the contract on or before October 31, 2011 the holder's right to capacity will terminate on October 31, 2012. The Company does not anticipate that AEM will renew the contract of its own accord. The Company, if permitted to obtain the capacity as described herein prior to the notification date, would exercise the right to renew for periods beyond 2012. Therefore, if the Company cannot obtain the CDS capacity before October 31, 2011, the Company believes it will lose its opportunity to obtain winter-only CDS capacity.

20. Accordingly, the Company respectfully requests that the Commission consider this petition on an expedited basis so as to reach a determination prior to October 31, 2011. The Company understands that this would require expedited action on the part of the Commission that may be difficult to obtain. The Company therefore would also be eager to discuss with Commission Staff potential alternative approaches that would permit the Company to take advantage of this opportunity. In all cases, a rapid resolution of this docket would be in the public interest.

21. Because AEM is an affiliated interest of Atmos under Section 7-101 of the Public Utilities Act (220 ILCS § 5/7-101), Atmos seeks approval under the Public Utilities Act for the acquisition of the CDS capacity from TETCO via a capacity release by AEM, to the extent such approval is determined to be required under the Act. As discussed above, this transaction is in the public interest and should be approved.¹

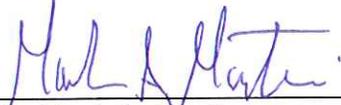
WHEREFORE, Atmos respectfully requests that the Commission rule that Commission approval is not necessary or in the alternative, approve the arrangements set forth in this petition under the Public Utilities Act.

[Remainder of page intentionally left blank]

¹ Because the acquisition of pipeline capacity by Atmos is regulated by the Federal Energy Regulatory Commission, Illinois may be preempted from prohibiting the acquisition and release of the capacity. Without prejudice to the Commission's ability to so decide, and without waiving Atmos' right to pursue this argument in this or any other proceeding in the future, Atmos does not believe that it is necessary to address this issue at this time, because Atmos believes that Section 7-101 of the Act does not apply in these circumstances or that in any case these transactions meet the standards for Commission approval under Section 7-101 of the Act.

Respectfully submitted,

ATMOS ENERGY CORPORATION

By: 

Name: Mark A. Martin

Title: Vice President – Rates and Regulatory Affairs

Counsel for Atmos Energy Corporation:

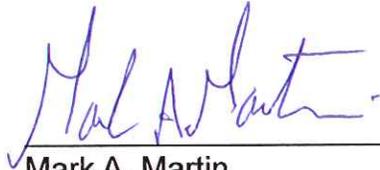
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September 2, 2011

VERIFICATION

STATE OF KENTUCKY :
 : SS
COUNTY OF DAVIESS :

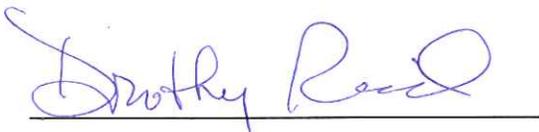
Mark A. Martin, being first duly sworn, states in his capacity as Vice President – Rates and Regulatory Affairs of Atmos Energy Corporation, Kentucky/Mid-States Division, that he has read the foregoing petition and that the facts stated therein are true and correct to the best of his knowledge, information and belief.



Mark A. Martin
Vice President – Rates and Regulatory Affairs
Atmos Energy Corporation
Kentucky/Mid-States Division

SUBSCRIBED AND SWORN to

Before me on this 2 day of September 2011



Notary Public