

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO**

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**IN THE MATTER OF ADVICE LETTER NO. 490            )**  
**FILED BY ATMOS ENERGY CORPORATION            )**  
**TO RECOVER UNCOLLECTIBLE GAS COSTS            )**     **DOCKET NO. 12AL-1003G**  
**THROUGH THE GAS COST ADJUSTMENT            )**  
**MECHANISM TO BE EFFECTIVE                    )**  
**OCTOBER 11, 2012                                    )**

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**STIPULATION AND SETTLEMENT AGREEMENT  
IN RESOLUTION OF PROCEEDING**

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This Stipulation and Settlement Agreement in Resolution of Proceeding (“Settlement Agreement”) is entered into by and among Atmos Energy Corporation (“Atmos” or “Company”), the Trial Staff of the Public Utilities Commission of the State of Colorado (“Staff”), and the Colorado Office of Consumer Counsel (“OCC”), (individually, “a Party” and collectively, “the Parties”). This Settlement Agreement sets forth the terms and conditions by which the Parties have agreed to resolve all outstanding issues presented by the Company’s September 11, 2012 advice letter filing that commenced this proceeding, and all issues that have or could have been contested in this proceeding.

The Parties state that the results of the compromises reflected herein are a just and reasonable resolution of this proceeding, that reaching agreement as set forth herein and implementation of the compromises and consideration reflected in this Settlement Agreement is in the public interest. Each party hereto pledges its support of this Settlement Agreement and states that each will defend the agreement reached. The Parties respectfully request that the Public

Utilities Commission of the State of Colorado (“Commission”) approve this Settlement Agreement, without modification.

## I. BACKGROUND

1) On September 11, 2012, Atmos filed Advice Letter No. 490 and accompanying tariff sheets in order to enable Atmos to continue to recover uncollectible gas costs through the Deferred Gas Cost component of its Gas Cost Adjustment (“GCA”) rate rider. In conjunction with the filing of Advice Letter No. 490, Atmos also filed the Direct Testimony of Joe T. Christian and the Direct Testimony and Exhibits of Elizabeth A. Florence. Atmos’ recovery of gas costs through its GCA rather than as a cost component included in its base rates arose out of a pilot program that was part of a comprehensive stipulation resolving Atmos’ most recent rate proceeding, in Docket No. 09AL-507G (approved by Decision No. R09-1381, on December 11, 2009). As provided in the 2009 stipulation, in order to extend the pilot to continue the recovery of uncollectible gas costs through its GCA going forward, Atmos was required to file an advice letter prior to the Company’s annual “November 1 GCA filing.”

2) On September 24, 2012, Staff filed a letter of protest relative to Advice Letter No. 490.

3) On October 1, 2012, the OCC filed a Protest and Request for Hearing with respect to Advice Letter No. 490.

4) By Decision No. C12-1166, adopted October 3, 2012, the Commission suspended the October 11, 2012 effective date of the proposed tariffs and referred the matter to an Administrative Law Judge (“ALJ”). In addition, Decision No. C12-1166 established the intervention period, and further established that “[t]o the extent that Atmos is authorized to continue

to recover uncollectible gas cost, Atmos is entitled to a mechanism that includes the amount incurred from November 1, 2012<sup>1</sup> forward.”

6) On November 2, 2012, Staff filed a Notice of Intervention, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1403(b) and Request for Hearing, which was later amended on November 28, 2012.

7) On November 7, 2012, the OCC filed a Notice of Intervention of Right, Entry of Appearance, and Request for Hearing.

8) On November 14, 2012, presiding Administrative Law Judge Paul C. Gomez issued Decision No. R12-1330-I, noting the interventions of the Staff and OCC, and establishing a prehearing conference.

9) By Joint Motion of the Parties filed on November 28, 2012, the Parties proposed a procedural schedule and also addressed the procedural matter posed in light of the proposed effective date of the tariffs accompanying Advice Letter No. 490, and the sufficiency of the time permitted by § 40-6-111(b), C.R.S.

10) On November 29, 2012 Atmos filed Advice Letter No. 490-Amended for the purpose of extending the proposed effective date of the proposed rates in this proceeding from October 11, 2012 to November 5, 2012 in order to accommodate the Parties’ agreed-upon revised procedural schedule.

11) By Decision No. R12-1385-I, issued on November 29, 2012, Administrative Law Judge Gomez adopted the procedural schedule presented by the Parties and suspended the proposed

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<sup>1</sup> By Decision No. C12-1208-I, mailed October 19, 2012, the Commission modified Decision No. C12-1166 to amend the November 1, 2012 date to October 15, 2012.

effective date of the tariffs from October 11, 2012 to November 5, 2012 to ensure sufficient time in the procedural schedule to issue a Recommended Decision and issue a final Commission Decision on exceptions should they be filed.

12) On January 4, 2013, Answer Testimony was filed. Staff filed the Answer Testimony and Exhibits of Scott England and the Answer Testimony of Bridget McGee. The OCC filed the Answer Testimony and Exhibits of Cory Skluzak.

13) On January 31, 2013, Atmos filed the Rebuttal Testimony of Joe T. Christian and the Rebuttal Testimony and Exhibit of Elizabeth A. Florence.

14) On January 31, 2013, Staff filed the Cross-Answer Testimony of Richard T. Reis.

15) The Parties met to discuss the possibility of settling this matter. Through their discussions, the Parties reached an agreement in principle, pursuant to which the Parties agreed to resolve all issues which were or could have been raised in this proceeding.

16) On February 8, 2013, the Parties advised Administrative Law Judge Gomez of their settlement agreement in principle, and further jointly filed a Motion to Modify the Procedural Schedule to extend the date by which a Stipulation and/or Settlement Agreement is due from February 8, 2013 to February 12, 2013.

17) The Parties have now reduced their agreement in principle to a comprehensive settlement as reflected in this Settlement Agreement.

## **II. TERMS OF SETTLEMENT**

The Parties stipulate and agree to the following terms of Settlement, and further agree that approval of these terms, without modification, is in the public interest and should be approved:

18) The pilot program initiated in Docket No. 09AL-507G (approved by Decision No. R09-1381, on December 11, 2009) that permits Atmos to recover its prudently-incurred

uncollectible gas costs through the GCA shall continue in full force and effect until the date new rates are put into effect as a result of a 2013 general rate case filed by Atmos.

19) Atmos shall file a general rate case in Colorado no later than June 1, 2013.

20) The uncollectible gas costs incurred by Atmos from July 1, 2011, through June 30, 2013, shall continue to be tracked in Atmos' Account 191 and shall be recovered from customers through Atmos' GCA rates in effect from November 1, 2013 through October 31, 2014 (subject to true-up in accordance with the terms of Atmos' GCA). In Atmos' October 15, 2013, GCA filing, Atmos shall provide the supporting documentation regarding the July 1, 2011, through June 30, 2013, uncollectible gas costs as required by Decision No. R09-1381 at Paragraph 76. Further, Atmos shall provide a separate exhibit as part of that GCA filing with a narrative description documenting where the uncollectible gas costs can be found in that filing.

21) The uncollectible gas costs incurred by Atmos from July 1, 2013 through the date that new rates are put into effect as a result of a general rate case filed by Atmos shall be tracked in Atmos' Account 191 and shall be recovered from customers through Atmos' GCA rates in effect from November 1, 2014 through October 31, 2015 (subject to true-up in accordance with the terms of Atmos' GCA). In Atmos' October 15, 2014, GCA filing, Atmos shall provide the supporting documentation regarding the uncollectible gas costs for the period July 1, 2013 through the date that new rates are put into effect as a result of a general rate case filed by Atmos, as required by Decision No. R09-1381 at Paragraph 76. Further, Atmos shall provide a separate exhibit as part of that GCA filing with a narrative description documenting where the uncollectible gas costs can be found within that filing.

22) Nothing in this Settlement Agreement shall limit the rights of the Staff and OCC to review and challenge the prudence of the uncollectible gas costs included in the October 15, 2013, and October 15, 2014, GCA filings.

23) In Atmos' 2013 general rate case filing, Atmos shall propose that uncollectible gas costs should be recovered through base rates rather than through the GCA following the date that new rates are put into effect as a result of that rate case.

24) Nothing in this Settlement Agreement shall limit the rights of the Staff and OCC to review and challenge the amount of uncollectible gas costs that Atmos proposes to include in base rates in the 2013 general rate case filing.

25) Nothing in this Settlement Agreement shall limit the rights of any Party to take any position regarding uncollectible gas costs in any case following the 2013 general rate case.

### **III. IMPLEMENTATION**

The Parties agree that this Settlement Agreement has been agreed to by the Parties solely for purposes of settlement and do not constitute a settled practice or otherwise have precedent-setting value in any future proceedings. None of the Parties shall be deemed to have approved, accepted, agreed to or consented to any concept, theory or principle underlying or supposed to underlie any of the matters provided for in this Settlement Agreement other than for the limited purpose of entering into this Agreement. Notwithstanding the resolution of the issues set forth in this Settlement Agreement, none of the principles herein contained shall be deemed by the Parties to constitute a settled practice or precedent in any future proceeding. Nothing in this Settlement Agreement shall preclude the Company from seeking prospective changes in its natural gas service rates by an appropriate filing with the Commission. Nothing in this Settlement Agreement shall preclude any

other party from filing a complaint or seeking an order to show cause to obtain prospective changes in the Company's natural gas service rates and/or provisions in the Company's tariff.

This Settlement Agreement shall take effect upon its approval by the Commission.

This Settlement Agreement shall not become effective until the issuance of a final Commission Order approving the Settlement Agreement that does not modify the Settlement Agreement in a manner that is unacceptable to any of the Parties. In the event the Commission modifies this Settlement Agreement in a manner unacceptable to any Party, that Party shall have the right to withdraw from this Settlement Agreement and proceed to hearing on the issues that may be appropriately raised by that Party in this docket. The withdrawing Party shall notify the Commission and the Parties to this Settlement Agreement by e-mail within three business days of the Commission modification that the Party is withdrawing from the Settlement Agreement and that the Party is ready to proceed to hearing; the e-mail notice shall designate the precise issue or issues on which the Party desires to proceed to hearing (the "Hearing Notice").

The withdrawal of a Party shall not automatically terminate this Settlement Agreement as to the withdrawing Party or any other Party. However, within three business days of the date of the Hearing Notice from the first withdrawing Party, all Parties shall confer to arrive at a comprehensive list of issues that shall proceed to hearing and a list of issues that remain settled as a result of the first Party's withdrawal from this Settlement Agreement. Within five business days of the date of the Hearing Notice, the Parties shall file with the Commission a formal notice containing the list of issues that shall proceed to hearing and those issues that remain settled. The Parties who proceed to hearing shall have and be entitled to exercise all rights with respect to the issues that are heard that they would have had in the absence of this Settlement Agreement.

Hearing shall be scheduled on all of the issues designated in the formal notice filed with the Commission as soon as practicable. The withdrawing Party shall file as part of its formal notice a proposed procedural schedule for said Hearing, which if possible shall be agreed upon by the Parties. In the event that this Settlement Agreement is not approved, or is approved with conditions that are unacceptable to any Party who subsequently withdraws, the negotiations or discussions undertaken in conjunction with the Settlement Agreement shall not be admissible into evidence in this or any other proceeding, except as may be necessary in any proceeding to enforce this Settlement Agreement.

#### **IV. GENERAL TERMS AND CONDITIONS**

The Parties hereby agree that all pre-filed testimony and exhibits not already admitted into evidence in this docket shall be admitted into evidence without cross-examination. This Settlement Agreement reflects compromise and settlement of all issues raised or that could have been raised in this docket. This Settlement Agreement shall be filed as soon as possible with the Commission for Commission approval.

Approval by the Commission of this Settlement Agreement shall constitute a determination that the Settlement Agreement represents a just, equitable and reasonable resolution of issues that were or could have been contested among the parties in this proceeding. The Parties state that reaching agreement as set forth herein by means of a negotiated settlement rather than through a formal adversarial process is in the public interest and that the results of the compromises and settlements reflected in this Settlement Agreement are in the public interest.

This Settlement Agreement may be executed in counterparts, each of which when taken together shall constitute the entire Settlement Agreement with respect to the issues addressed by this Settlement Agreement.

The Parties agree to a waiver of compliance with any requirements of the Commission's Rules and Regulations to the extent necessary to permit all provisions of this Settlement Agreement to be carried out and effectuated.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

DATED this 10<sup>th</sup> day of February, 2013.

Respectfully submitted,

**ATMOS ENERGY CORPORATION**

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**ATTORNEYS FOR  
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DATED this 12<sup>th</sup> day of February, 2013.

Respectfully submitted,

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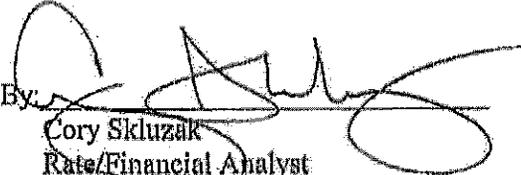
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DATED this 2<sup>th</sup> day of February, 2013.

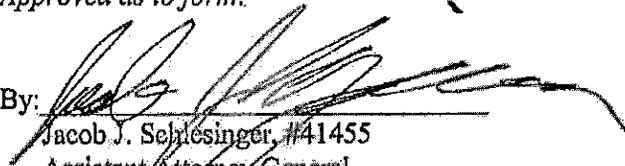
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## CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of February, 2013, a true and correct copy of the foregoing **STIPULATION AND SETTLEMENT AGREEMENT IN RESOLUTION OF PROCEEDING** was e-filed with the Commission and served via electronic mail upon the following:

Paul C. Gomez	<a href="mailto:paulc.gomez@state.co.us">paulc.gomez@state.co.us</a>	Administrative Law Judge
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*s/ Maggie Smyczynski*

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