

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, DECEMBER 11, 2015

SCC-CLERK'S OFFICE  
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2015 DEC 11 P 2:15  
CASE NO. PUE-2015-00125

APPLICATION OF  
ATMOS ENERGY CORPORATION

For approval of a special contract for  
gas transportation service pursuant to  
§ 56-235.2 of the Code of Virginia

ORDER FOR NOTICE AND HEARING

On November 25, 2015, Atmos Energy Corporation ("Atmos" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission"), pursuant to § 56-235.2 of the Code of Virginia ("Code") and 20 VAC 5-310-10 of the Commission's Rules for Filing an Application to Provide Electric and Gas Service Under a Special Rate, Contract or Incentive ("Special Rate Rules"), wherein it requested approval of a special contract for gas transportation service to James Hardie Building Products, Inc. ("James Hardie") at its industrial facility in Pulaski, Virginia. Additionally, the Company filed a Motion for Protective Ruling pursuant to 5 VAC 5-20-170 of the Rules of Practice and Procedure ("Rules of Practice") and the Special Rate Rules.

In its Application, the Company states that on November 23, 2015, Atmos and James Hardie (collectively, "Parties") entered into a "Firm Natural Gas Transportation Agreement" ("Contract") to transport gas to James Hardie's industrial facility in Pulaski, Virginia, and that the Contract renews and amends the previous arrangement between the Parties that was formalized in a contract entered into on April 2, 2013 ("Original Contract") and approved by the

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Commission in Case No. PUE-2013-00038.<sup>1</sup> The Company further states that the Original Contract expires on March 31, 2016, and the Parties intend for the Contract to become effective April 1, 2016, subject to the Commission's approval. According to the Company, at the time James Hardie was constructing its industrial facility in 2005, it was a potential by-pass customer that was contemplating the installation of its own natural gas line connecting directly to an East Tennessee Natural Gas Company pipeline. Given the pending expiration of the Original Contract, James Hardie is again in a potential by-pass position in that it could install its own natural gas line connecting directly to an East Tennessee Natural Gas Company pipeline. According to the Company, James Hardie hired outside consultants who completed an Analysis of Service Alternatives at Expiration of Current Atmos Transport Agreement, outlining the project economic analyses, but Atmos and James Hardie were able to negotiate service terms to avoid the by-pass. In its Application, the Company asserts that the Contract is substantially similar to the Original Contract with James Hardie.

According to the Company, the Contract requires Atmos to receive, transport, and deliver James Hardie's full natural gas requirements up to a specified maximum daily quantity. Atmos is obligated to transport and redeliver to James Hardie all confirmed volumes received for James Hardie at a specified point of receipt on a non-interruptible basis. The term of the Contract extends to March 31, 2026. Additionally, the Company states that the Contract caps the customer charge and monthly rate at a currently tariffed rate for the duration of the Contract.

The Company further states that the Contract promotes the public interest by ensuring that James Hardie remains a customer, remains in Virginia, and continues to provide economic

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<sup>1</sup> *Application of Atmos Energy Corporation, For approval of a special contract for gas transportation service pursuant to §56-235.2 of the Code of Virginia, Case No. PUE-2013-00038, 2013 S.C.C. Ann. Rept. 395, Order Granting Approval and Directing Response (Sept. 18, 2013).*

benefits to the region. Atmos states that the Contract will not unreasonably prejudice or disadvantage any customers or class of customers, and there are no similarly situated customers that would be unreasonably prejudiced by the approval of the Contract. Finally, Atmos asserts that reliable service to other customers is not jeopardized by providing service to James Hardie.

The Company notes that the Contract is designed to provide a seamless transition for James Hardie so that they may continue to operate under negotiated rates without interruption and, therefore, requests expedited approval of the Contract. Specifically, the Company requests that the Commission establish a procedural schedule that ensures that, at a minimum, the positions of the Commission Staff ("Staff") and all parties to the proceeding are known by January 31, 2016.

NOW THE COMMISSION, upon consideration of the Application, finds that the matter should be docketed; that a Hearing Examiner should be appointed to conduct further proceedings on behalf of the Commission; that public notice and an opportunity for participation should be given; and that a hearing should be scheduled on the Company's Application.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed Case No. PUE-2015-00125.
- (2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120 of the Commission's Rules of Practice, *Procedure before hearing examiners*, a Hearing Examiner is appointed to conduct all further proceedings in this matter, including ruling on the Company's Motion for Protective Ruling, concluding with the filing of a Hearing Examiner's report containing the Hearing Examiner's findings and recommendations on the Company's Application.
- (3) A public hearing is scheduled to commence at 10 a.m. on February 12, 2016, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond,

Virginia 23219, before a Hearing Examiner to receive evidence of the Company, any respondents, and the Staff. Any person not participating as a respondent, as provided for below, may give oral testimony concerning this case as a public witness at the hearing. Any person desiring to offer testimony as a public witness at the hearing concerning the Application only need appear in the Commission's Second Floor courtroom at the address set forth above prior to 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff.

(4) A copy of the Application and this Order for Notice and Hearing, as well as other orders and documents now or hereafter filed in this matter, shall be available for public inspection in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. A copy of this Application also may be obtained by submitting a written request to counsel for Atmos, Timothy E. Biller, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074. Upon receipt of a request for a copy of the Application, the Company shall serve copies of the same upon the requesting party within three business days of such request. If acceptable to the requesting party, the Company may provide the Application, with or without attachments, by electronic means. In addition, the Commission's Order for Notice and Hearing and other orders entered in this docket, Hearing Examiner's Rulings, the Commission's Rules of Practice, as well as other information concerning the Commission and the statutes it administers, may be viewed on the Commission's website at: <http://www.scc.virginia.gov/case>.

(5) On or before January 4, 2016, Atmos shall cause the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territory within the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF AN APPLICATION BY ATMOS  
ENERGY CORPORATION, FOR APPROVAL OF A SPECIAL  
CONTRACT FOR GAS TRANSPORTATION SERVICE  
CASE NO. PUE-2015-00125

On November 25, 2015, Atmos Energy Corporation ("Atmos" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission"), pursuant to § 56-235.2 of the Code of Virginia ("Code") and 20 VAC 5-310-10 of the Commission's Rules for Filing an Application to Provide Electric and Gas Service Under a Special Rate, Contract or Incentive ("Special Rate Rules"), wherein it requested approval of a special contract for gas transportation service to James Hardie Building Products, Inc. ("James Hardie") at its industrial facility in Pulaski, Virginia. Additionally, the Company filed a Motion for Protective Ruling pursuant to 5 VAC 5-20-170 of the Rules of Practice and Procedure ("Rules of Practice") and the Special Rate Rules.

In its Application, the Company states that on November 23, 2015, Atmos and James Hardie (collectively, "Parties") entered into a "Firm Natural Gas Transportation Agreement" ("Contract") to transport gas to James Hardie's industrial facility in Pulaski, Virginia, and that the Contract renews and amends the previous arrangement between the Parties that was formalized in a contract entered into on April 2, 2013 ("Original Contract") and approved by the Commission in Case No. PUE-2013-00038. The Company further states that the Original Contract expires on March 31, 2016, and the Parties intend for the Contract to become effective April 1, 2016, subject to the Commission's approval. According to the Company, at the time James Hardie was constructing its industrial facility in 2005, it was a potential by-pass customer that was contemplating the installation of its own natural gas line connecting directly to an East Tennessee Natural Gas Company pipeline. Given the pending expiration of the Original Contract, James Hardie is again in a potential by-pass position in that it could install its own natural gas line connecting directly to an East Tennessee Natural Gas Company pipeline. According to the Company, James Hardie hired outside consultants who completed an Analysis of Service Alternatives at Expiration of Current Atmos Transport Agreement, outlining the project economic analyses, but Atmos and James Hardie were able to negotiate service terms to avoid the by-pass. In its Application, the Company asserts that the Contract is substantially similar to the Original Contract with James Hardie.

According to the Company, the Contract requires Atmos to receive, transport, and deliver James Hardie's full natural gas requirements up to a specified maximum daily quantity. Atmos is obligated to transport and redeliver to James Hardie all confirmed volumes received for James Hardie at a specified point of receipt on a non-interruptible basis. The term of the Contract extends to March 31, 2026. Additionally, the Company states that the Contract caps the customer charge and monthly rate at a currently tariffed rate for the duration of the Contract.

The Company further states that the Contract promotes the public interest by ensuring that James Hardie remains a customer, remains in Virginia, and continues to provide economic benefits to the region. Atmos states that the Contract will not unreasonably prejudice or disadvantage any customers or class of customers, and there are no similarly situated customers that would be unreasonably prejudiced by the approval of the Contract. Finally, Atmos asserts that reliable service to other customers is not jeopardized by providing service to James Hardie.

The Company notes that the Contract is designed to provide a seamless transition for James Hardie so that they may continue to operate under negotiated rates without interruption and, therefore, requests expedited approval of the Contract. Specifically, the Company requests that the Commission establish a procedural schedule that ensures that, at a minimum, the positions of the Commission Staff ("Staff") and all parties to the proceeding are known by January 31, 2016.

The Company's Application is docketed and assigned Case No. PUE-2015-00125. The Commission entered an Order for Notice and Hearing that, among other things, scheduled a public hearing to commence at 10 a.m. on February 12, 2016, in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony from members of the public and evidence related to the Application from the Company, any respondents, and the Staff. Any persons desiring to testify as a public witness at this hearing should appear fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff.

The Company's Application and the Commission's Order for Notice and Hearing are available for public inspection in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday

through Friday, excluding holidays. A copy of the Application also may be obtained at no cost by making a written request to the Company's counsel, Timothy E. Biller, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond Virginia 23219-4074. If acceptable to the requesting party, the Company may provide the Application, with or without attachments, by electronic means. In addition, the Company's Application, the Commission's Order for Notice and Hearing and other orders entered in this docket, the Commission's Rules of Practice, as well as other information concerning the Commission and the statutes it administers, may be viewed on the Commission's website at: <http://www.scc.virginia.gov/case>.

Any interested person may participate as a respondent in this proceeding by filing, on or before January 22, 2016, a notice of participation. If not filed electronically, an original and fifteen (15) copies of a notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. The respondent shall simultaneously serve a copy of the notice of participation on counsel for Atmos, Timothy E. Biller, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond Virginia 23219-4074. Pursuant to Rule of Practice 5 VAC 5-20-80 B, *Participation as a respondent*, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUE-2015-00125.

On or before January 22, 2016, each respondent may file with the Clerk of the Commission and serve on the Staff, the Company and all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth above. Respondents also shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2015-00125.

On or before January 22, 2016, any interested person may file written comments on the Application with the Clerk of the

Commission at the address set forth above. Any interested person desiring to submit comments electronically may do so on or before January 22, 2016, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUE-2015-00125.

The Commission's Rules of Practice may be viewed at: <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and an official copy of the Commission's Order for Notice and Hearing in this proceeding may be obtained from the Clerk of the Commission at the address set forth above.

#### ATMOS ENERGY CORPORATION

(6) On or before January 4, 2016, Atmos shall serve a copy of its Application and this Order for Notice and Hearing on the chairman of the board of supervisors and county attorney of each county and on the mayor or manager of every city and town (or on equivalent officials in counties, towns, and cities having alternate forms of government) in which Atmos provides service in the Commonwealth of Virginia. Service shall be made by personal delivery or by first class mail, postage prepaid, to the customary place of business or residence of the person served.

(7) On or before January 22, 2016, Atmos shall file with the Clerk of the Commission proof of the notice and service required in Ordering Paragraphs (5) and (6) respectively, including the name, title, and address of each official served.

(8) Any interested person may participate as a respondent in this proceeding by filing a notice of participation on or before January 22, 2016. If not filed electronically, an original and fifteen (15) copies of a notice of participation shall be submitted to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. The respondent simultaneously shall serve a copy of the notice of participation on counsel for Atmos at the address in Ordering Paragraph (4). Pursuant to Rule 5 VAC 5-20-80 B,

*Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUE-2015-00125.

(9) Within three (3) business days of receipt of a copy of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of the Application and other materials filed on November 25, 2015, unless these materials already have been provided to the respondent.

(10) On or before January 22, 2016, each respondent may file with the Clerk of the Commission at the address set forth in Ordering Paragraph (8) and serve on the Staff, the Company and on all other respondents, any testimony and exhibits by which the respondent expects to establish its case. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (8). In all filings, the respondent shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2015-00125.

(11) On or before January 22, 2016, any interested person may file written comments on the Application with the Clerk of the Commission, at the address set forth in Ordering Paragraph (8). Any interested person desiring to submit comments electronically may do so on or before January 22, 2016, by following the instructions found on the Commission's website:

<http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUE-2015-00125.

(12) The Staff shall investigate the Application. On or before January 29, 2016, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the Staff's testimony and exhibits and shall promptly serve a copy of the same on counsel to the Company and all respondents.

(13) On or before February 5, 2016, the Company may file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer and simultaneously shall serve a copy on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Paragraph (8).

(14) The Company shall respond to written interrogatories or requests for production of documents within five (5) calendar days, including weekends and holidays, after receipt of same. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(15) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Timothy E. Biller, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4030; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and a copy also shall be delivered to the

Commission's Office of General Counsel and Divisions of Energy Regulation and Utility  
Accounting and Finance.

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