

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**OFFICE OF PUBLIC COUNSEL,
APPELLANT**

vs.

**MISSOURI PUBLIC SERVICE COMMISSION,
RESPONDENT**

DOCKET NUMBER WD74714

DATE: SEPTEMBER 18, 2012

Appeal from:

Public Service Commission

Appellate Judges:

Division Three: Victor C. Howard P.J., Karen King Mitchell and Cynthia L. Martin, JJ.

Attorneys:

Marc D. Poston, for Appellant

Jennifer L. Heintz, for Respondent Missouri Public Service Commission

Larry W. Dority, for Respondent Atmos Energy Corporation

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

OFFICE OF PUBLIC COUNSEL, APPELLANT

v.

MISSOURI PUBLIC SERVICE COMMISSION, RESPONDENT

WD74714

Public Service Commission

Before Division Three: Victor C. Howard, P.J., Karen King Mitchell and Cynthia L. Martin, JJ.

The Office of Public Counsel (OPC) appeals from the order of the Public Service Commission of the State of Missouri (PSC) approving the 2007-2008 actual cost adjustment rates for Atmos Energy Corporation (Atmos). The PSC rejected the PSC's Staff's proposed disallowance of \$308,733 in costs incurred by Atmos under a gas purchase contract with its affiliate, Atmos Energy Marketing (AEM). The OPC claims that the PSC's order is unlawful and unreasonable in that it violates the Affiliate Transaction Rule 4 CSR 240-40.016 and is not supported by competent and substantial evidence. The order of the PSC is affirmed.

AFFIRMED

Division Three holds:

Where Atmos utilized a competitive bidding process that included non-affiliates to award contracts to gas marketing companies, nothing in the record indicated that Atmos tended to favor its affiliates in the bidding process, and AEM submitted the lowest bids for two of Atmos's service areas, the transactions between Atmos and AEM were in compliance with the Affiliate Transaction Rules. Furthermore, the PSC's conclusions were supported by competent and substantial evidence on the whole record.

Opinion by: Victor C. Howard, Judge

Date: September 18, 2012

This summary is *UNOFFICIAL* and should not be quoted or cited.