

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

STAFF NOTICE OF ALLEGED VIOLATIONS

(August 12, 2011)

Take notice¹ that in a nonpublic preliminary investigation pursuant to 18 CFR Part 1b, the staff of the Office of Enforcement of the Federal Energy Regulatory Commission (Commission) has preliminarily determined that Atmos Energy Corporation (Atmos) and its subsidiaries, Atmos Energy Marketing, Inc. (AEM) and Trans Louisiana Gas Pipeline, Inc. (Trans La), violated sections 284.8(h)(2)² and 1c.1 of the Commission's regulations through flipping³ and AEM violated the Commission's shipper-must-have-title requirement and the associated FERC gas tariffs of various pipelines.

Atmos is one of the largest natural gas distribution utilities in the United States, serving approximately 3.2 million customers in 12 states where it operates as a public utility regulated by state and local authorities. AEM and Trans La, two of Atmos' subsidiaries operating in its non-utility business segment, provide natural gas management and marketing services to Atmos' utility operations, and hold transportation and storage capacity in their own name on over 27 pipelines.

Staff alleges that: (1) AEM violated section 284.8(h)(2) of the Commission's regulations when it released, on its own behalf or acting for others, capacity through flipping; (2) AEM and Trans La violated section 1c.1 of the Commission's regulations when they acquired capacity through flipping, on their own behalf or acting for others, and that they did not terminate their flipping activity until January 2008; (3) the contractual capacity released and/or acquired by flipping was 26.1 Bcf; (4) some of AEM's and Trans La's flipping transactions involved using defunct companies not

¹ *Enforcement of Statutes, Regulations, and Orders*, 129 FERC ¶ 61,247 (2009), *order on reh'g*, 134 FERC ¶ 61,054 (2011).

² 18 C.F.R. § 284.8(h)(2) (2010).

³ Flipping is a term that describes transactions that avoid the posting and bidding requirements for discounted rate firm capacity at 18 C.F.R. § 284.8 (2011), and typically involves a series of short-term releases of discounted rate capacity to two or more affiliated replacement shippers on an alternating monthly basis, without complying with the posting and bidding requirements, that creates a long-term, noncompetitive discounted rate release.

affiliated with Atmos, a practice of which AEM and Trans La high-level personnel were aware; (5) AEM and Trans La high-level personnel knew of and strategized in the use of flipping as a way to continue discounted rate releases; (6) AEM violated the shipper-must-have-title requirement and the FERC Gas Tariffs of various interstate pipelines, when it shipped 297.8 Bcf of gas titled in its name but using other companies' transportation capacity rights; and (7) AEM high-level personnel were aware of the shipper-must-have-title violations since 2004.

This Notice does not confer a right on third parties to intervene in the investigation or any other right with respect to the investigation.

Kimberly D. Bose,
Secretary.

Document Content(s)

MS081211a.DOC.....1-2