

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Complaint of Atmos Energy	)	17-CONS-3509-CMSC
Against Endeavor Energy Resources, L.P.	)	Docket No. <del>17-ATMG</del> <u>COM</u>
Relating to the Stigmeir #23-1 Well Located in	)	CONSERVATION DIVISION
the SW/4 SW/4 SW4 of Section 23, Township 33	)	Atmos Energy Corporation License No. 31769
South, Range 17 East, Labette County, Kansas.	)	Endeavor Resources, L.P. License No. 32887

**COMPLAINT**

COMES NOW Atmos Energy Corporation ("Atmos Energy") and for its cause of action pursuant to K.S.A. 55-1201, *et seq.*, against Endeavor Energy Resources, LP ("Endeavor") states as follows:

**I. PARTIES**

A. ATMOS ENERGY

1. Atmos Energy is a corporation incorporated in the states of Texas and Virginia and is authorized to do business in the state of Kansas. The address of its principal place of business in Kansas is 25090 W. 110<sup>th</sup> Terr., Olathe, Kansas 66061.

2. Atmos Energy is a natural gas public utility as defined by K.S.A. 66-104. It provides natural gas public utility service to approximately 129,000 customers in Kansas pursuant to certificates of convenience and necessity issued by the Kansas Corporation Commission ("KCC") pursuant to K.S.A. 66-131.

3. In conjunction with its natural gas public utility business in Kansas, Atmos Energy owns and operates the Liberty North Underground Gas Storage Facility ("Underground Gas Storage Facility") under KCC License No. 31769. The Underground Storage Facility is located in Labette County and Montgomery County, Kansas. Atmos Energy's Underground Gas Storage Facility is

subject to the KCC's rules and regulations relating to underground gas storage facilities. Atmos Energy stores gas in the Squirrel Sand underground formation, which is located between 420 feet and 470 feet below the surface. The West Half of Section 23, Township 33 South, Range 17 East, Labette County, Kansas is located within the current Underground Gas Storage Facility boundary approved by the KCC.

B. ENDEAVOR ENERGY RESOURCES, LP

4. Endeavor is a Texas limited partnership who's corporate address is 110 N. Marienfeld, Suite 200, Midland, Texas. Endeavor is authorized to do business in the state of Kansas. Endeavor's Kansas registered agent is The Corporation Company, Inc., 112 SW 7<sup>th</sup> Street, Suite 3C, Topeka, Kansas, 66603.

5. Endeavor is in the business of operating and producing oil and gas wells under License No. 32887 issued by the KCC. Endeavor's Kansas oil and gas operations are subject to the jurisdiction of the KCC.

6. Endeavor owns and operates a well known as the Stigmeir #23-1 ("Well"). The Well is located in the SW/4 of the SW/4 of the SW/4 of Section 23, Township 33 South, Range 17 East, Labette County, Kansas. According to records on file with the KCC the Well is producing gas from the Squirrel Sand Formation at a depth below surface of 454-467 feet. This means the Well is located within the boundaries of Atmos Energy's Underground Gas Storage Facility and is producing gas from the same underground formation being used by Atmos Energy to inject and store gas.

**II. REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF PURSUANT TO K.S.A. 55-1210**

7. Atmos Energy incorporates herein by reference paragraphs 1 through 6 of its Complaint.

8. K.S.A. 55-1210(a) provides:

All natural gas which has previously been reduced to possession, and which is subsequently injected into underground storage fields, sands, reservoirs and facilities, whether such storage rights were acquired by eminent domain or otherwise, shall at all times be the property of the injector, such injector's heirs, successors or assigns, whether owned by the injector or stored under contract.

9. K.S.A. 55-1210(b) states in pertinent part:

In no event shall such gas be subject to the right of the owner of the surface of such lands or of any mineral interest therein, under which such gas storage fields, sands, reservoirs and facilities lie, or of any person, other than the injector, such injector's heirs, successors or assigns, to produce, take, reduce to possession, either by means of the law of capture or otherwise, waste, or otherwise interfere with or exercise any control over such gas.

10. Atmos Energy seeks an order from the KCC finding that Endeavor has no right to produce gas from the Well. The Well is located within the boundary of the Underground Gas Storage Facility as established by the KCC. According to the completion report filed by Endeavor at the KCC, the Well is producing gas from the same underground formation (Squirrel Sand formation) that Atmos Energy is using to inject, store and withdraw gas in its operation of the Underground Gas Storage Facility. Under K.S.A. 55-1210(b), Endeavor has no right to produce, reduce to possession...or otherwise interfere with or exercise any control over such gas. Under K.S.A. 55-1210(a), the gas produced from the Well is the property of Atmos Energy.

### **III. REQUEST TO TEST GAS BEING PRODUCED FROM THE WELL**

11. Atmos Energy incorporates herein by reference paragraphs 1 through 10 of its Complaint.

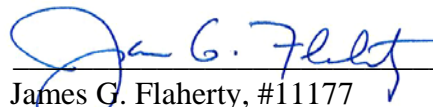
12. K.S.A. 55-1210(c)(2) allows Atmos Energy, as the injector of gas into the Underground Gas Storage Facility, the right to conduct such tests on the gas produced from the Well "as may be

reasonable to determine ownership of gas."

13. Atmos Energy has asked Endeavor several times if it could take samples of the gas produced from the Well in order to run tests to determine if the gas produced from the Well is Atmos Energy's injected gas. Endeavor has not responded to Atmos Energy's request to conduct such gas sampling.

14. Atmos Energy is requesting an order from the KCC allowing Atmos Energy to immediately take such gas samples on the gas produced from the Well at the wellhead as may be reasonable to conduct tests to determine ownership of the gas. Atmos Energy agrees to provide Endeavor reasonable notice of when it will take such gas samples and allow Endeavor the right to observe Atmos Energy taking the necessary gas samples at the wellhead in order to conduct the tests on said gas to determine whether the gas is injected gas.

WHEREFORE, Atmos Energy seeks an order from the KCC granting the relief requested herein, and for such other relief as deemed appropriate by the KCC.



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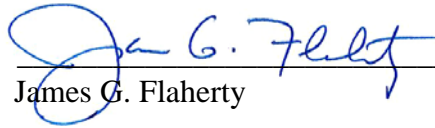
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Attorneys for Atmos Energy Corporation

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was sent via U.S. Mail, postage prepaid, hand-delivery, or electronically, this 2<sup>nd</sup> day of March, 2017, addressed to:

Michael Short  
General Counsel  
Endeavor Energy Resources L.P.  
110 N. Marienfeld Street  
Midland, Texas 79701



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James G. Flaherty