

ATMOS ENERGY CORP
Form 8-K
January 05, 2009

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 8-K

Current Report Pursuant to Section 13 or
15(d) of the Securities Exchange Act of 1934

December 30, 2008

Date of Report (Date of earliest event reported)

ATMOS ENERGY CORPORATION

(Exact Name of Registrant as Specified in its Charter)

TEXAS AND VIRGINIA
(State or Other Jurisdiction

1-10042
(Commission File Number)

75-1743247
(I.R.S. Employer

of Incorporation)

Identification No.)

1800 THREE LINCOLN CENTRE,

5430 LBJ FREEWAY, DALLAS, TEXAS
(Address of Principal Executive Offices)

(972) 934-9227

75240
(Zip Code)

(Registrant's Telephone Number, Including Area Code)

Not Applicable

(Former Name or Former Address, if Changed Since Last Report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

On December 30, 2008, Atmos Energy Marketing, LLC ("AEM"), a Delaware limited liability company, which is wholly-owned by Atmos Energy Holdings, Inc., a Delaware corporation and a wholly-owned subsidiary of Atmos Energy Corporation, entered into the Third Amended and Restated Credit Agreement, by and among AEM, BNP Paribas, a bank organized under the laws of France, as administrative agent, collateral agent, as an issuing bank and as a bank, Fortis Bank SA/NV, New York Branch, a bank organized under the laws of Belgium, as documentation agent, as an issuing bank and as a bank, Société Générale, as syndication agent, as an issuing bank and as a bank, and a syndicate of four additional banks identified therein.

The Third Amended and Restated Credit Agreement ("Credit Agreement") represents an amendment and restatement of AEM's original credit agreement dated December 1, 2001, as amended and restated (which was last amended March 31, 2008), primarily to: (i) convert the existing uncommitted \$580,000,000 borrowing base facility that was payable on demand to a 364-day \$375,000,000 committed borrowing base revolving credit facility (subject to the satisfaction of stated financial guidelines and borrowing base eligibility conditions) available for revolving credit loans, swing line loans, as defined in the credit facility, and letters of credit; (ii) add an accordion feature, whereby the borrowing base of the facility can be increased in increments of at least \$15,000,000 up to an additional \$50,000,000 (not to exceed a maximum of \$450,000,000) with the approval of the administrative agent and the receipt of additional commitments from one or more financial institutions or lenders; (iii) add a swing line loan feature; (iv) adjust the rate of interest on base rate loans under the facility as discussed below; and (v) adjust the fees paid by AEM to reflect the facility's conversion to a committed basis and prevailing credit market conditions.

The credit facility will continue to be used to provide loans to AEM and issue letters of credit for the account of AEM, primarily in order to continue to provide working capital for its natural gas marketing business. At AEM's option, Borrowings made under the credit facility will be based on a base rate or an offshore rate, in each case plus an applicable margin. The base rate will be a floating rate equal to the higher of: (a) 0.50% per annum above the latest federal funds rate; (b) the per annum rate of interest established by BNP Paribas from time to time as its prime rate or base rate for U.S. dollar loans; (c) an offshore rate (based on LIBOR with a one-month interest period) as in effect from time to time; and (d) the cost of funds rate based on an average of interest rates reported by one or more of the lenders to the administrative agent. The offshore rate will be a floating rate equal to the higher of (a) an offshore rate based upon LIBOR for the applicable interest period; and (b) a cost of funds rate referred to above. In the case of both base rate and offshore rate loans, the applicable margin will range from 2.250% to 2.625% per annum, depending on the excess tangible net worth of AEM, as defined in the credit facility.

Based on current conditions, base rate loans would bear interest at 5.50% per annum (3.25% base rate + 2.25% margin). Based on the current LIBOR rate for a seven day period, offshore rate loans would bear interest at 2.99% per annum (0.74% LIBOR rate + 2.25% margin). Loans made as a result of drawings under letters of credit issued by the banks will bear interest at the base rate plus an applicable margin ranging from 2.250% to 2.875% per annum, depending on the excess tangible net worth of AEM and whether the letters of credit are swap-related.

The credit facility will expire 364 days from its effective date, at which time all amounts outstanding under the facility will be due and payable, except for any letters of credit outstanding at that date, all of which will be due no later than March 31, 2010. The credit facility contains usual and customary covenants for transactions of this type, including covenants limiting liens, additional indebtedness and mergers. AEM will be required not to exceed a maximum ratio of

total liabilities to tangible net worth of 5.00 to 1.00, along with maintaining minimum levels of net working capital and net worth ranging from \$75,000,000 to \$112,500,000, as all such terms are defined in the credit facility, depending on the total amount of borrowing elected from time to time by AEM. The credit facility is secured by substantially all of the assets of AEM and is guaranteed by its parent company, Atmos Energy Holdings, Inc.

In the event of a default by AEM under the credit facility, including cross-defaults relating to specified other indebtedness of AEM having a principal amount of more than \$250,000 in the aggregate, the administrative agent may, and shall upon the request of a certain minimum number of the banks, terminate the obligations of the banks to make loans or issue letters of credit under the credit facility, declare the amount outstanding payable immediately, including all accrued interest and unpaid fees, and enforce any and all rights and interests created and existing under the credit facility documents, including, without limitation, all rights of set-off and all other rights available under the law.

With respect to the other parties to the credit facility, AEM has or may have had customary banking relationships based on the provision of a variety of financial services, including the purchase and sale of financial instruments traded on various commodity exchanges, none of which are material individually or in the aggregate with respect to any individual party, other than BNP Paribas, which relationship is material to AEM. These financial instruments include, but are not limited to, NYMEX futures and over-the-counter natural gas hedges. In addition, AEM or its affiliates have or may have purchased natural gas on an arm's length basis based upon market prices from one of more affiliates of the other parties to the credit facility. A copy of the Credit Agreement is attached hereto as Exhibit 10.1, which is incorporated herein by reference. The foregoing summary does not purport to be complete and is qualified in its entirety by reference to the Credit Agreement.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information described in Item 1.01 above is hereby incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

- 10.1 Third Amended and Restated Credit Agreement, dated as of December 30, 2008, among Atmos Energy Marketing, LLC, a Delaware limited liability company, BNP Paribas, a bank organized under the laws of France, as administrative agent, collateral agent, as an issuing bank and as a bank, Fortis Bank SA/NV, New York Branch, a bank organized under the laws of Belgium, as documentation agent, as an issuing bank and as a bank, Société Générale, as syndication agent, as an issuing bank and as a bank and the other financial institutions which may become parties thereto.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

ATMOS ENERGY CORPORATION

(Registrant)

Date: January 5, 2009

By: /s/ LOUIS P. GREGORY
Louis P. Gregory

Senior Vice President and General Counsel

INDEX TO EXHIBITS

Exhibit Number	Description
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