

ATMOS ENERGY CORP
Form 8-K
December 02, 2005

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

November 28, 2005

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

of Incorporation)

1-10042
(Commission File Number)

75-1743247
(I.R.S. Employer

Identification No.)

1800 THREE LINCOLN CENTRE,
5430 LBJ FREEWAY, DALLAS, TEXAS

75240

Edgar Filing: ATMOS ENERGY CORP - Form 8-K

(Address of Principal Executive Offices)

(Zip Code)

(972) 934-9227

(Registrant's Telephone Number, Including Area Code)

Not Applicable

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

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 November 28, 2005, 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 First Amendment (First Amendment) to the Uncommitted Second Amended and Restated Credit Agreement, dated as of March 30, 2005 (the Credit Agreement), among Fortis Capital Corp., a Connecticut corporation, as joint lead arranger and joint bookrunner, as administrative agent for the banks, as collateral agent, as an issuing bank, and as a bank; BNP Paribas, a bank organized under the laws of France, as joint lead arranger and joint bookrunner, as documentation agent, as an issuing bank, and as a bank; Société Générale, as a bank and as managing agent and a syndicate of five additional banks identified therein. The First Amendment amended the Credit Agreement, primarily to increase the amount of credit available under the facility from \$250,000,000 to \$580,000,000. There were no other substantive changes made to the terms of the Credit Agreement, other than to certain financial-related covenants, where proportional increases were made in the amounts of minimum levels of net working capital and tangible net worth required, as well as an increase in the amount of the maximum cumulative loss allowed from March 30, 2005, all of which are described below and resulted from the substantial increase in the amount of credit available under the facility. The credit facility, as amended, will continue to be used on an uncommitted and fully discretionary basis, to continue to provide loans to AEM and issue letters of credit for the account of AEM, primarily in order to provide working capital for its expanded natural gas marketing business.

Borrowings made as revolving loans under the credit facility will continue to bear interest at a floating rate equal to a base rate, defined as the higher of .50% per annum above the federal funds rate or the per annum rate of interest established by JPMorgan Chase Bank, N.A. as its prime rate at the time of such borrowing plus an applicable margin, which is defined as .50% per annum. Based upon the current prime rate, revolving loans would bear interest at 7.50% per annum. Borrowings made as offshore rate loans will continue to bear interest at a floating rate equal to an offshore rate, which is equal to a base rate based upon LIBOR plus an applicable margin, which will range from 1.375% to 1.75% per annum, depending on the excess tangible net worth of AEM, as defined in the credit facility. Based upon the current LIBOR rate, offshore rate loans would bear interest at 5.69% per annum. Borrowings drawn down under letters of credit issued by the banks will continue to bear interest at a floating rate equal to the base rate, as defined above plus an applicable margin, which will range from 1.125% to 2.00% per annum, depending on the excess tangible net worth of AEM and whether the letters of credit are swap-related standby letters of credit.

The credit facility will expire on March 31, 2006, at which time all outstanding amounts under the credit 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 June 30, 2006. The credit facility contains usual and customary covenants for transactions of this type, including covenants limiting liens, additional indebtedness and mergers. In addition, AEM will be required to not exceed a maximum ratio of total liabilities to tangible net worth of 5.00 to 1 or a maximum cumulative loss from March 30, 2005 ranging from \$4 million to \$23 million, along with maintaining

minimum levels of net working capital ranging from \$20 million to \$120 million and tangible net worth ranging from \$21 million to \$121 million, 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, 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, including all accrued interest and unpaid fees, payable immediately, 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 instruments include, but are not limited to, NYMEX futures and options contracts and over-the-counter natural gas hedges. A copy of the First Amendment is attached hereto as Exhibit 10.1 and is incorporated herein by reference. The foregoing summary does not purport to be complete and is qualified in its entirety by reference to the First Amendment.

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 First Amendment, dated as of November 28, 2005, to the Uncommitted Second Amended and Restated Credit Agreement, dated as of March 30, 2005, among Atmos Energy Marketing, LLC, a Delaware limited liability company, the financial institutions from time to time parties thereto (the Banks), Fortis Capital Corp., a Connecticut corporation, as Joint Lead Arranger and Joint Bookrunner, as Administrative Agent for the Banks, as Collateral Agent, as an Issuing bank, and as a Bank; BNP Paribas, a bank organized under the laws of France, as Joint Lead Arranger and Joint Bookrunner, as Documentation agent, as an Issuing bank, and as a Bank; and Société Générale, as a Bank and as Managing Agent

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: December 2, 2005

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

Senior Vice President

and General Counsel

INDEX TO EXHIBITS

| <u>Exhibit Number</u> | <u>Description</u> |
|-----------------------|---|
| 10.1 | First Amendment, dated as of November 28, 2005, to the Uncommitted Second Amended and Restated Credit Agreement, dated as of March 30, 2005, among Atmos Energy Marketing, LLC, a Delaware limited liability company, the financial institutions from time to time parties thereto (the Banks), Fortis Capital Corp., a Connecticut corporation, as Joint Lead Arranger and Joint Bookrunner, as Administrative Agent for the Banks, as Collateral Agent, as an Issuing bank, and as a Bank; BNP Paribas, a bank organized under the laws of France, as Joint Lead Arranger and Joint Bookrunner, as Documentation agent, as an Issuing bank, and as a Bank; and Société Générale, as a Bank and as Managing Agent |