

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**April 12, 2006**

<b>IN RE:</b>	)	
	)	
<b>UNITED CITIES GAS COMPANY a Division</b>	)	<b>Consolidated Docket Nos.</b>
<b>of ATMOS ENERGY CORPORATION</b>	)	<b>01-00704 and 02-00850</b>
<b>INCENTIVE PLAN (IPA) AUDIT</b>	)	
	)	
<b>UNITED CITIES GAS COMPANY a Division</b>	)	
<b>Of ATMOS ENERGY CORPORATION,</b>	)	
<b>PETITION TO AMEND THE PERFORMANCE</b>	)	
<b>BASED RATEMAKING MECHANISM RIDER</b>	)	

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**STAFF RESPONSE TO ATMOS ENERGY CORPORATION'S MOTION FOR  
RECONSIDERATION TO HEARING OFFICER**

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The TRA Staff of the Utilities Division ("the Staff"), as a party to the above named dockets,<sup>1</sup> submits the following comments in response to Atmos Energy Corporation's ("Atmos" or "the Company") Motion for Reconsideration to Hearing Officer ("Motion") filed in the above dockets on March 29, 2006. The purpose of this response is to address certain assertions made by the Company in this Motion.

**ATMOS' MOTION**

Atmos seeks reconsideration of the Hearing Officer's Initial Order on the Merits ("Initial Order"), which was filed March 14, 2006. While Atmos bases its request on a number of issues, the Staff intends to limit its response to the first issue, discussed under

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<sup>1</sup> TRA Staff was also granted status as party to Docket No 02-00850 by Order of the Hearing Officer on January 26, 2004.

subsection I.<sup>2</sup> In its Motion, Atmos claims that the amended Performance Based Ratemaking tariff ("TIF tariff")<sup>3</sup> proposed by the Company in Docket No. 02-00850 became effective on June 6, 2003. Atmos bases this claim in part on TRA Rule 1220-4-1-04, which states that all tariff changes require a 30-day notice to the Authority. Atmos cites the Authority's orders suspending this tariff from the Company proposed effective date of April 1, 2001 through June 5, 2003.<sup>4</sup> Atmos asserts that since there is no Authority order suspending the tariff beyond this date the TIF tariff automatically took effect on June 6, 2003.

### **DISCUSSION**

A number of motions were heard and orders issued by the Hearing Officer with regard to Docket No. 01-00704, the original docket arising out of the Staff's audit of the Performance Based Ratemaking Mechanism Rider ("PBR"), and the Company's subsequent filing of a proposed "amended" PBR in Docket No. 02-00850. Atmos now asks the Hearing Officer to ignore the record established in these dockets. Staff would respectfully point out the following facts.

Atmos filed its petition seeking Authority approval of an amended PBR on August 9, 2002 in Docket No. 02-00850. This petition was filed in response to the contested audit findings in Docket No. 01-00704 and proposed a specific mechanism to address the negotiated transportation discounts achieved by the Company subsequent to the Authority approval of an incentive plan for United Cities Gas Company. Instead of

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<sup>2</sup> Motion, subsection I. PURSUANT TO TRA RULES, THE TIF TARIFF ATMOS FILED ON AUGUST 9, 2002 BECAME EFFECTIVE JUNE 6, 2003, pages 1 and 2.

<sup>3</sup> The proposed revised tariff includes a mechanism to calculate "savings" and define "sharing" of these savings from discounted negotiated transportation contracts.

<sup>4</sup> Motion, page 2.

requesting an effective date of September 8, 2002, which would comply with the 30-day notice required in TRA Rule 1220-4-1-.04, the Company requested April 1, 2001, the first day of the new reporting period in its PBR following the period in question in Docket No. 01-00704. The Authority at that time recognized the relationship of this docket to Docket 01-00704 and elected to delay addressing this petition. As Atmos pointed out in its current Motion, the Authority formally suspended the amended tariff on three separate occasions, through June 5, 2003.<sup>5</sup>

While there is no subsequent order suspending the tariff until the decision on the merits of the Hearing Officer, Atmos is well aware that the parties agreed during the negotiation process in Docket No. 01-00704 to delay consideration of the proposed tariff in Docket No. 02-00850 pending the outcome of the contested case in Docket No. 01-00704. When initial settlement negotiations between the parties failed, mediation was considered as an option to determine if it was possible for a settlement agreement to be reached before scheduling a hearing date. At the April 7, 2003 status conference presided over by then Hearing Officer Richard Collier, the parties agreed to mediation and Director Deborah Taylor Tate consented to act in the role of mediator. The tariff in question in Docket No. 02-00850 was discussed at length by the parties.<sup>6</sup> Counsel for the Staff expressed the opinion that no particular application of the tariff could be agreed on until a settlement or resolution of the issues in both dockets took place.<sup>7</sup> Counsel for the Consumer Advocate and Protection Division of the Attorney General's Office ("CAPD")

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<sup>5</sup> Id.

<sup>6</sup> See Transcript of Proceedings, Monday, April 7, 2003, attached as Exhibit #1.

<sup>7</sup> Transcript (April 7, 2003), pages 10 and 11.

agreed.<sup>8</sup> The Hearing Officer directed the parties to ascertain the issues that would be placed before the mediator.<sup>9</sup>

Mediation on the two dockets commenced in July 2003. The Company understood that the TIF tariff was not in effect on June 6, 2003 contrary to what the Motion alleges. Counsel for Atmos communicated to the Hearing Officer on May 27, 2003 by email that the Company was “fine with postponing consideration of the PBR TIF tariff until after the mediation.”<sup>10</sup>

On January 9, 2004, the TRA Staff filed a Petition to Intervene in Docket 02-00850, since “[t]his docket is closely related to Docket No. 01-00704 to which Staff is already a party.” Furthermore, “[r]esolution of Docket No. 02-00850 without Staff’s participation as a party would unfairly present [sic] Staff from asserting positions before the Authority taken with regard to the related issues pending in Docket No. 01-00704.”<sup>11</sup> This petition shows that the TIF tariff was not in effect as the Company alleges.

On March 8, 2004, the TRA Staff and Atmos jointly filed a motion to consolidate Docket Nos. 01-00704 and 02-00850 and to present a proposed settlement agreement which would settle the issues in both dockets. In that petition, the two parties stated: “Docket No. 02-00850 was placed on hold pending the resolution of the audit case in Docket No. 01-00704 since resolution of the audit case would materially impact Docket No. 02-00850.”<sup>12</sup> Counsel for Atmos signed this petition which again supports Staff’s

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<sup>8</sup> Id., pages 12 and 13.

<sup>9</sup> Id., page 13.

<sup>10</sup> Email transmission dated May 27, 2003 from Misty Kelley to Richard Collier on behalf of Joe Conner. See copy of email attached as Exhibit #2.

<sup>11</sup> Petition to Intervene (January 9, 2004), page 2.

<sup>12</sup> Motion to Consolidate and to Approve Settlement Agreement (March 8, 2004), page 2.

contention that Atmos was aware that the TIF tariff did not become effective June 6, 2003 as alleged.

All attempts to resolve these two dockets ultimately failed and a hearing date was set for October 19, 2004. Pre-filed direct testimony of each party was filed on July 30, 2004. Rebuttal testimony was filed on October 5, 2004. At the hearing all issues pertaining to the consolidated dockets, including the proposed TIF tariff were addressed. During Mr. Conner's recross-examination of Ms. Pat Murphy, he posed the question: "[w]ith respect to the 850 docket, isn't it true that there has been also an **agreement to stay the implementation of the 850 docket pending the outcome of this proceeding?**" [Emphasis added] Ms. Murphy answered "yes."<sup>13</sup> Mr. Conner then asked: "[o]nce a new tariff is filed with the Authority, if no action is taken with regard to that tariff, what happens to it after a period of time?" Ms. Murphy answered: "[i]t automatically goes into effect after 30 days." Mr. Conner then asked: "[a]nd that has not occurred in the 850 docket **because there's been an agreement for it to be postponed;** correct?"[Emphasis added]<sup>14</sup>

### CONCLUSION

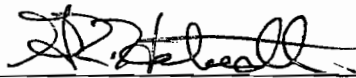
There is no question, based on record and the evidence in this case, that the TIF tariff proposed by Atmos in Docket No. 02-00850 did not take effect on June 6, 2003. Atmos stated its agreement in writing that consideration of the TIF tariff would be postponed until after mediation. The parties in this case (including Atmos) recognized the relationship between the two dockets and indeed Atmos joined in a Staff motion to consolidate the two dockets and propose a settlement agreement between Atmos and Staff

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<sup>13</sup> Transcript of Proceedings (October 19, 2004) Volume II, page 88.

to settle all issues in the two dockets. The Company itself admitted in open court that there was an agreement in place that consideration of the TIF tariff would be postponed pending the outcome of the proceeding in consolidated Docket No. 01-00704. Therefore, Staff respectfully requests that the Hearing Officer deny reconsideration of her ruling regarding the proposed TIF tariff in Docket No. 02-00850.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary Hotvedt", written over a horizontal line.

Gary Hotvedt  
Counsel for TRA Staff

### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served as indicated on the person or persons listed below on April 12, 2006.

- ☐ Hand Delivery
- ☒ First Class Mail
- ☒ Facsimile
- ☐ E-mail

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Gary Hotvedt

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## BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE:

UNITED CITIES GAS CO.

INCENTIVE PLAN ACCOUNT AUDIT

DOCKET NO.

01-00704

## TRANSCRIPT OF PROCEEDINGS

Monday, April 7, 2003

## APPEARANCES:

For Atmos Energy:

Mr. Joe Conner

Ms. Misty Kelley

For Consumer Advocate

Mr. Russell Perkins

Division, Office of the  
Attorney General:

Mr. Tim Phillips

For TRA Staff:

Mr. Jon Wike

Reported By:

Susan D. Delac, RPR, CCR



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1 (The aforementioned cause came on to  
2 be heard on Monday, April 7, 2003, beginning at  
3 approximately 2:35 p.m., before Richard Collier,  
4 Hearing Officer, when the following proceedings were  
5 had, to-wit:)

6  
7 MR. COLLIER: We'll convene a status  
8 conference in Docket No. 01-00704. This is the United  
9 Cities Gas Company incentive plan account audit. And  
10 this status conference has been scheduled pursuant to  
11 an order issued on March 31, 2003, and pursuant to an  
12 agreement of the parties with an earlier setting which  
13 was changed from April the 1st, 2003.

14 And if the parties will identify  
15 themselves for the record, Mr. Conner first.

16 MR. CONNER: Yes. I'm Joe Conner with  
17 Baker, Donelson, Bearman & Caldwell with my associate,  
18 Misty Kelley, representing Atmos Energy.

19 MR. PERKINS: I'm Russell Perkins with  
20 the Consumer Advocate Division of the Attorney  
21 General's office. And I have Tim Phillips with me.

22 MR. WIKE: I'm Jon Wike for the TRA  
23 staff.

24 MR. COLLIER: On March 31, 2003, I  
25 issued the order on the motions for summary judgment.

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1 MR. COLLIER: Do the parties have any  
2 problem with their schedules in proceeding with the  
3 mediation in April?

4 MR. CONNER: Again, I think we would  
5 need to go ahead and agree on a mediator pretty quickly  
6 and move forward. And just so that we're clear, I have  
7 talked with my client and I know that Director Tate is  
8 a certified mediator. And I think at one of the  
9 conferences I attended over the telephone recently she  
10 offered, I think, in one case, to be a mediator, and I  
11 believe she was on the panel and I think elected to not  
12 do it. And I'm not even sure who is on our panel.

13 MR. WIKE: Actually I think it's --  
14 she's not on this panel.

15 MR. CONNER: I checked with my client,  
16 and I think that would be a viable option for us from  
17 our perspective. And also it benefits from not having  
18 to pay an outside lawyer and split the expenses on the  
19 lawyer to do the mediation.

20 MR. PERKINS: If Director Tate is not  
21 on this panel, then we wouldn't have any objection to  
22 her serving as the mediator.

23 MR. COLLIER: And what if Director  
24 Tate is on the panel and the tariff is pending the  
25 outcome of this?

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1 And pursuant to an earlier meeting of counsel, it was  
2 determined that dependent upon the decision in that  
3 order there may need to be an additional meeting to set  
4 up either a procedure or to move forward with the  
5 selection of the mediator and mediation of the issues  
6 that remain in this case.

7 Have the parties discussed mediation  
8 in the interim?

9 MR. CONNER: We've not had any further  
10 discussions since your order of March the 31st.  
11 Mr. Collier, I would be willing though, now, to  
12 entertain mediation, and whatever is the best mechanism  
13 for that. We would like to go ahead and schedule one  
14 as soon as possible depending on the schedule of the  
15 mediator, of course, and the parties.

16 I think that it would also be  
17 productive to have a hearing schedule in place so that  
18 we know what our target is as far as -- you know,  
19 hopefully we're able to get it resolved in mediation.  
20 If not, we don't have to come back, we can go ahead and  
21 rely on the schedule.

22 MR. COLLIER: Have the parties  
23 discussed a hearing date?

24 MR. CONNER: We haven't at this point.  
25 My schedule is such that I have several matters out of

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1 MR. CONNER: Well, I think it would  
2 be -- we don't have to mediate both of them at the same  
3 time. But, obviously, it would be more efficient to  
4 have them both included, because I think if we're able  
5 to settle one we should be able to take care of the  
6 other one.

7 And I would also say that the  
8 litigation of the audit matter should we not have a  
9 mediation should also, I think, dispose of the tariff  
10 case.

11 So if she is a member of the panel on  
12 the tariff, then I wouldn't have a problem with her  
13 serving as mediator here.

14 MR. COLLIER: Would the parties have a  
15 problem with her serving as a mediator in this case and  
16 then deliberating in the other case?

17 MR. CONNER: No.

18 MR. PERKINS: We might have a problem  
19 with that. I don't know if there's a way that these  
20 matters can be consolidated. I know we can't do it  
21 today, but if it's consolidated under the earlier  
22 panel, then that would solve the problem.

23 MR. CONNER: I would need to check  
24 with my client, but I don't think we have a problem  
25 with that if we would even have the same panel that was

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1 state to try in May and June, unfortunately, and my  
2 April, I'm afraid, is going to be pretty backed up just  
3 getting ready for those.

4 I can work -- I should be able to work  
5 a mediation in this month, but I would be hard-pressed  
6 to find a date to have a full hearing before July or  
7 August, for me anyway.

8 MR. COLLIER: Mr. Perkins, at our last  
9 meeting you had indicated that while you didn't  
10 necessarily oppose mediation, you weren't going to  
11 commit to one depending upon the outcome of the motions  
12 for summary judgment. Any further thoughts on  
13 mediation?

14 MR. PERKINS: I think in terms of an  
15 internal procedure we would need one more approval, we  
16 would need to talk to our chief deputy to get the  
17 mediation approved. But I would recommend it, and  
18 although I can't speak for our chief deputy, I think it  
19 would probably be approved.

20 MR. COLLIER: Mr. Wike.

21 MR. WIKE: Staff is open to the idea  
22 of mediation, and we would very much like to give that  
23 a shot before -- I don't really have any thoughts of  
24 scheduling a hearing, but I'm kind of glad to hear that  
25 it wouldn't be until July or August.

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1 doing the audit, reviewing the audit, and to make the  
2 determination on the tariff itself, if that would  
3 facilitate the mediation.

4 MR. COLLIER: Now, consolidation would  
5 be to a panel where Director Tate is not serving. So  
6 Director Tate would serve as a mediator over both  
7 dockets, you understand that, if they're consolidated.

8 MR. CONNER: Yes.

9 MR. COLLIER: Okay. Then if not  
10 resolved, the ultimate appeal would be resolved by a  
11 panel, the panel that's in the 704 action.

12 MR. CONNER: That's correct.

13 MR. COLLIER: So you all understand  
14 that?

15 MR. PERKINS: That's fine with us.

16 MR. WIKE: That's fine.

17 MR. COLLIER: So with that, do you  
18 want me to ask Director Tate if she would like to  
19 mediate this case?

20 MR. CONNER: I think that would be  
21 great. Is there any way you could even check with her  
22 now, Mr. Collier, to see while we're here?

23 MR. COLLIER: I could ask her.

24 MR. PERKINS: That works for us.

25 MR. COLLIER: Do you want to recess?

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1 for a few minutes?  
 2 MR CONNER Sure  
 3 MR PERKINS Yes  
 4 (Off the record)  
 5 MR COLLIER After checking with  
 6 Director Tate, she's agreed to serve as mediator in  
 7 this case. I did discuss with her the possibility that  
 8 it might be consolidated, but that's an action that I  
 9 assume I'll have to look into as far as doing that  
 10 She's going to look at her calendar to  
 11 determine what dates would be available in April for  
 12 that, and I'll get that information to you  
 13 General Perkins, you need to find out  
 14 if you have absolute approval, is that correct?  
 15 MR PERKINS Yes  
 16 MR CONNER One of the things that I  
 17 spoke to Russell about is our president, Tom Blase,  
 18 intends to participate in mediation. And he has  
 19 requested that I request that General Summers also  
 20 participate in mediation. So Russell and Tim are going  
 21 to take that and see if we can have him there as well  
 22 That way we'll have settlement people with settlement  
 23 authority at the mediation  
 24 MR PERKINS We'll request that he  
 25 make himself available, otherwise we'll get some

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1 than the issues in either one of those dockets. I  
 2 think that the application of the company's proposed  
 3 tariff to the audits is still an issue in both dockets  
 4 I think that some sort of settlement or resolution of  
 5 both of those dockets would need to take place before  
 6 there could be any application of that particular view  
 7 of the tariff, or application of the tariff, to provide  
 8 for a transportation discount to apply to any year  
 9 And maybe I misunderstood, but it  
 10 sounds like you suddenly kind of shifted gears. When I  
 11 heard the question, what it was about, it got me  
 12 thinking that the question was about the tariff docket  
 13 itself, which is not something that we've been  
 14 discussing settling because, not to get too technical  
 15 about it, staff is not even a party in that one, it's  
 16 just been deferred  
 17 MR CONNER That was, I guess, the  
 18 reason for the conversation. And we don't have to get  
 19 into our prior settlement discussions, but I understand  
 20 what you're saying, Jon, because that was part of those  
 21 settlements. And then when the settlement didn't go  
 22 through, we filed it as a separate kind of alternative  
 23 tariff  
 24 And what I'm proposing here though  
 25 is -- because I do think that without, again, any

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1 authority in advance of the mediation  
 2 MR CONNER So you're going to get  
 3 with us or send us an e-mail, Richard, on dates?  
 4 MR COLLIER Correct  
 5 MR PERKINS We are assuming that  
 6 formal discovery is suspended while we go through the  
 7 mediation process. We've already talked about the  
 8 possibility that if either side needs something for  
 9 preparation of the mediation, we'll just do it  
 10 informally. But after that, after the mediation, and  
 11 if we're not able to settle it, then we suspect that  
 12 there would be some need for some, I guess, some  
 13 discovery after that, particularly if the cases are  
 14 consolidated  
 15 MR COLLIER Is that agreed?  
 16 MR CONNER Yes. If we have an  
 17 objection to the discovery when we see it, we'll  
 18 object  
 19 MR COLLIER I know you will.  
 20 Mr. Conner, what position does this put you in with  
 21 regard to the tariff? I know there was a question  
 22 about trying to get it resolved  
 23 MR CONNER Right. What we had  
 24 suggested at the last settlement conference, I also  
 25 mentioned to Russell a few minutes ago before we went

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1 implication on our arguments in the underlying audit  
 2 case, the "tiff" specifically deals with  
 3 transportation, and as far as a simplification of the  
 4 tariff going forward it makes sense to have it that  
 5 way  
 6 And that's why I'm suggesting that if  
 7 we could get over the Consumer Advocate's retroactive  
 8 argument or objection, retroactive application  
 9 objection for the two other years, earlier years, and  
 10 we'd go forward, the company is willing to do that and  
 11 simply go forward with the tiff as the new tariff,  
 12 specifically covering transportation so that we have  
 13 some certainty and we're finishing a plan year -- we  
 14 just did finish one -- and so it's kind of in hiatus  
 15 right now as well until the other underlying ones are  
 16 fixed. That was my suggestion  
 17 MR PERKINS Well, it sounds like  
 18 that's a good topic for the mediation, the point that  
 19 he's raised, that we can hash that out at the  
 20 mediation. And hopefully it will be in a few weeks so  
 21 the concern about being in limbo might be addressed  
 22 MR COLLIER Any response.  
 23 Mr. Conner?  
 24 MR CONNER I take that as you're not  
 25 interested until mediation?

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1 on the record, is that the tariff be allowed to go into  
 2 effect for at least the 2002-2003 plan year. And by  
 3 saying that, you know, they're not waiving any claim in  
 4 regard to their positions on the other two plan years,  
 5 and neither are we  
 6 But that at least would remove -- I  
 7 think that plan year should not be at issue with  
 8 respect to their argument on the retroactivity of the  
 9 tariff. And I think that's an issue that they've  
 10 raised in regard to the prior years but not necessarily  
 11 for that year. And Russell said he had not heard back  
 12 from the person he had assigned to look at that  
 13 So I would hope that we would be able  
 14 to -- if you can let me know something on that,  
 15 Russell, as soon as you can, that way we could at least  
 16 get the tariff in place and stop the pain, I guess,  
 17 going forward so that we have some certainty while  
 18 these matters are hopefully going to be resolved in  
 19 short order as well  
 20 MR COLLIER Have you discussed that  
 21 with Mr. Wike?  
 22 MR CONNER We just mentioned it at  
 23 the last status conference  
 24 MR WIKE I think what you're talking  
 25 about is more in the area of the settlement discussions

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1 MR PERKINS Well, since we're going  
 2 to be that close to mediation, since we are a few weeks  
 3 away, it makes sense to just put that on the table with  
 4 whatever other issues we have  
 5 MR COLLIER I'll direct the parties  
 6 to ascertain what issues you are going to put before  
 7 the mediator so that you don't come in with different  
 8 expectations of what would come out  
 9 MR CONNER I think it would be  
 10 instructive, if we could, once we agree on a date, if  
 11 we could have a phone conference with Director Tate,  
 12 just the lawyers, so that we could get an idea from her  
 13 how she likes to run a mediation. I think mediators  
 14 typically have procedures they like to follow, whether  
 15 they get a mediation statement remains confidential, or  
 16 statement of the issues and pros and cons of the case,  
 17 and that sort of thing  
 18 If you could just check with her,  
 19 Mr. Collier, on that and see if she would like to do  
 20 that, I think it would probably be productive  
 21 MR COLLIER I will  
 22 MR PERKINS: We wouldn't object  
 23 MR CONNER And if we're going to go  
 24 ahead and mediate this, you know, in the near future,  
 25 since we're not -- I'm not going to be able to try the

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1 case until July or August, we can wait to get a date  
2 then if you would like, if that works I don't see any  
3 objections from Jon over here  
4 MR. COLLIER He's in agreement.  
5 Anything else to bring up right now? We'll get this  
6 moving Thank you  
7 (Proceedings concluded at  
8 3 15 p m )  
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1 REPORTER'S CERTIFICATE  
2 STATE OF TENNESSEE )  
3 COUNTY OF DAVIDSON )  
4 I, Susan D. Delac, Registered Professional  
5 Reporter, Certified Court Reporter, and Notary Public  
6 for the State of Tennessee at Large, hereby certify  
7 that I reported the foregoing proceedings at the time  
8 and place set forth in the caption thereof, that the  
9 proceedings were stenographically reported by me, and  
10 that the foregoing proceedings constitute a true and  
11 correct transcript of said proceedings to the best of  
12 my ability  
13 I FURTHER CERTIFY that I am not related to  
14 any of the parties named herein, nor their counsel, and  
15 have no interest, financial or otherwise, in the  
16 outcome or events of this action  
17 IN WITNESS WHEREOF, I have hereunto  
18 affixed my official signature and seal of office this  
19 29th day of April, 2003  
20  
21 SUSAN D. DELAC,  
22 REGISTERED PROFESSIONAL  
23 REPORTER, CERTIFIED COURT  
24 REPORTER, AND NOTARY PUBLIC  
25 FOR THE STATE OF TENNESSEE AT  
LARGE  
My Commission Expires  
July 24, 2004

**Pat Murphy - Atmos PBR TIF Tarriff Filing**

---

**From:** "Kelley, Misty S." <mkelley@bakerdonelson.com>  
**To:** "richard.collier@state.tn.us" <richard.collier@state.tn.us>  
**Date:** 5/27/2003 1:57 PM  
**Subject:** Atmos PBR TIF Tarriff Filing  
**CC:** "Conner, Joe" <jconner@bakerdonelson.com>, "Patricia D. Childers (E-mail)" <Patricia.Childers@UnitedCitiesGas.com>

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Richard:

Joe Conner asked me to e-mail you to apologize for not returning your call earlier this week. We were in hearings before the Illinois Commerce Commission all last week, and Joe is in depositions this week in California

I understand the PBR TIF tarriff Atmos filed is set to come up on the agenda around June 2. The mediation on the PBR audit and the TIF amendment is currently set for July 23. We are fine with postponing consideration of the PBR TIF tarriff until after the mediation. Please let me know if you would like to discuss the matter, or if there is anything further you need from us. Thanks...

Misty Smith Kelley  
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\*\*\*\*\*  
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