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May 2, 2006

Ron Jones, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

**Via Federal Express**  
**Priority Overnight Delivery**

***Re: In Re: United Cities Gas Company, a Division of Atmos Energy Corporation  
Incentive Plan (IPA) Audit & United Cities Gas Company, a Division of Atmos  
Energy Corporation, Petition to Amend the Performance Based Ratemaking  
Mechanism Rider,  
Consolidated Docket Nos. 01-00704 and 02-00850***

Dear Chairman Jones:

Enclosed please find an original and fourteen copies of Atmos Energy Corporation's Motion for TRA Review of Hearing Officer Order for filing in the above-referenced matter. Please stamp the enclosed copy "Filed" and return it to me in the enclosed postage pre-paid envelope.

If you have any questions regarding the enclosed please do not hesitate to contact me.

Sincerely,

*M. Kelley by KLC*  
Misty Smith Kelley

MSK:klc  
Enclosures

C MSK 349591 v1

2830844-000077 05/02/2006

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

IN RE: )

UNITED CITIES GAS COMPANY, )  
a Division of ATMOS ENERGY )  
CORPORATION INCENTIVE )  
PLAN (IPA) AUDIT )

Consolidated Docket Nos. 01-00704 and  
02-00850

UNITED CITIES GAS COMPANY, )  
a Division of ATMOS ENERGY )  
CORPORATION, PETITION TO )  
AMEND THE PERFORMANCE )  
BASED RATEMAKING )  
MECHANISM RIDER )

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TRA DOCKET ROOM

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**ATMOS ENERGY CORPORATION'S MOTION FOR TRA REVIEW OF  
HEARING OFFICER ORDER**

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Atmos Energy Corporation ("Atmos" or "Company") files this Motion for TRA Review of Hearing Officer Order pursuant to Tenn. Code Ann. § 4-5-315. Tenn. Code Ann. § 4-5-315 requires the TRA to grant motions for review of initial hearing officer orders upon the appeal of any party. Tenn. Code Ann. § 4-5-315(a). As the basis for its motion, Atmos states as follows:

- (1) The hearing officer's decision violates Atmos' rights to due process and equal protection by refusing to follow the TRA's established policy that gas companies that notify the TRA of their intentions with regard to incentive plans, and rely in good faith on the tacit approval they receive in response, should not be penalized.
- (2) The hearing officers' denial of the joint request by Atmos and TRA Staff to allow Atmos to withdraw its objections to the 2000-2001 audit is arbitrary and

capricious, and deprived Atmos of due process by forcing the Company to litigate objections it wished to concede.

(3) The hearing officer's initial order is null and void due the hearing officer's failure to comply with the 90 day requirement contained in Tenn. Code Ann. § 4-5-314(g), which substantially prejudiced Atmos.

(4) By operation of law, the TIF tariff Atmos proposed in Docket No. 02-00850 became effective in June 2003, when the last TRA order suspending the tariff expired.

(5) The record contains sufficient evidence to demonstrate that the TIF tariff is just and reasonable and that the sharing of transportation savings is within the scope and intent of the original PBR plan, and the hearing officer's findings to the contrary are in error.

(6) The hearing officer's disallowance of the transportation savings is precluded by both the plain language of the PBR tariff and the doctrine of estoppel.

For these reasons, Atmos requests that the TRA grant its motion for review, and set a procedural schedule for briefing of the issues as required by Tenn. Code Ann. § 4-5-315. Atmos also requests that the TRA allow the parties the opportunity to present oral argument on the issues.

BAKER, DONELSON, BEARMAN  
CALDWELL, & BERKOWITZ, P.C.

By: 

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Attorneys for Atmos Energy Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served via U.S. Mail, postage prepaid, upon the following this the 2nd day of May, 2006:

Russell T. Perkins

Timothy C. Phillips

Office of the Attorney General

Consumer Advocate & Protection Division

P.O. Box 20207

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Gary Hotvedt

Tennessee Regulatory Authority

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Nashville, TN 37243

