

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

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

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**ATMOS ENERGY CORPORATION'S REPLY BRIEF**

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On October 19, 2006, TRA Staff, as a party to this docket, filed a Joint Brief together with the Consumer Advocate and Protection Division. This two-page submission requested that the panel deny Atmos' Motion for Reconsideration of the Hearing Officer's Initial Order. Atmos' Motion for Reconsideration requested, among other things, that the panel reverse the Hearing Officer's denial of the Transportation Index Factor ("TIF") tariff the Company requested on August 9, 2002. Contrary to its most recent fling, at numerous times during this docket, TRA Staff has expressed its unqualified support for the proposed TIF tariff.

For example, at the hearing in this docket, TRA Staff witness Pat Murphy testified that had the transportation discounts encompassed by the TIF tariff been available, the TRA would have included a mechanism, like the proposed TIF tariff, to permit the Company to share in those discounts through the PBR plan.<sup>1</sup> During her testimony, Ms. Murphy also supported the TIF tariff as created and explained by former TRA consultant Frank Creamer, and urged the TRA to

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<sup>1</sup> Hearing Transcript, Vol. II, pp. 83-84 (Oct. 19, 2004) (Test. of Pat Murphy).

implement the TIF tariff effective April 1, 2001, the first year following the audit year at issue in Docket No. 01-00704.<sup>2</sup>

In addition, in a filing in this docket dated March 8, 2004, TRA Staff stated as follows:

The Staff and the Company agree that the TIF tariff amendments, with an effective date of April 1, 2001, will provide a more detailed and specific method for calculations of savings from discounted transportation contracts under the PBR Plan mechanism and that the TIF tariff is consistent with the intent and scope of the PBR Plan and is beneficial to consumers, as well as the Company. In summary, approval of the Settlement Agreement is necessary and proper for the public convenience and properly serves the public interest.

In the agreement submitted with that March 8, 2004 filing and signed by the Chief of the Energy and Water Division, TRA Staff specifically agreed to “cooperate and actively participate in filing the necessary pleadings and/or testimony to effectuate the terms and conditions of this Agreement and the approval and implementation of the TIF tariff in Docket No. 02-00850, including any appeal of an order therefrom.”

From the filing made October 19, 2006 in this docket, it appears TRA Staff is attempting to reverse its position, without any explanation whatsoever. Atmos therefore requests that it be granted leave to file a response should Staff offer additional arguments in its reply brief beyond those previously asserted by TRA Staff.

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<sup>2</sup> *Id.* at pp. 89-90.

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served via electronic mail, facsimile or hand delivery, upon the following this the 9<sup>th</sup> day of November, 2006:

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