

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

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**In re: Petition to Open an Investigation)
to Determine Whether Atmos Energy Corp.)
Should be Required by the TRA to Appear)
and Show Cause That Atmos Energy Corp.)
Is Not Overearning in Violation of Tennessee)
Law and That It Is Charging Rates That Are)
Just and Reasonable)**

Docket No. 05-00258

**In re: Atmos Energy Corporation Actual)
Cost Adjustment ("ACA") Audit)
)**

Docket No. 05-00253

**OBJECTION OF CONSUMER ADVOCATE AND PROTECTION DIVISION
TO ATMOS ENERGY CORPORATION'S REQUEST FOR IMPLEMENTATION
OF THE ORDER OF THE AUTHORITY**

The Office of the Tennessee Attorney General, by and through the Consumer Advocate and Protection Division, hereby submits its Objection to Atmos Energy Corporation's Request for Implementation of the Order of the Authority.

On September 29, 2006, Atmos filed its Request, seeking permission to hold *ex parte* discussions with the Authority staff in an attempt to resolve outstanding asset management issues in its ACA audit, Docket No. 05-00253, which issues are also under consideration in Phase Two of the ongoing Atmos rate case, Docket No. 05-00258. (Atmos's Request was styled for filing in Docket No. 05-00253, but it was inadvertently filed under Docket No. 05-00258 in the TRA's Internet electronic file room.) Atmos references a May 15, 2006, Authority order for Authority staff and Atmos to have such communications. Request at 1. However, the Authority subsequently

ordered that asset management issues be addressed in Phase Two of the Atmos rate case, Docket No. 05-00258, which is a contested case proceeding. *See* Order Addressing Intervention of AEM and the Procedural Schedules for Phases One and Two, Docket No. 05-00258, pp. 2-3 (July 13, 2006).

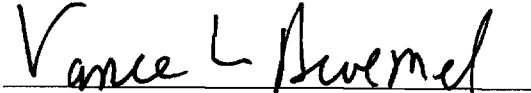
Atmos's request to engage the Authority staff in *ex parte* discussions regarding asset management issues was raised at the Status Conference held in Docket No. 05-00258 on September 26, 2006. Status Conference Transcript at 37 (September 26, 2006). Counsel for the Atmos Intervention Group stated that it would be inappropriate for Atmos to have such discussions with the Authority staff as these issues are also pending in the Atmos rate case. *Id.* at 38. The Consumer Advocate agrees. (Interestingly, Atmos did not serve its Request on the parties in Docket No. 05-00258 despite the discord regarding Atmos's proposed *ex parte* discussions with Authority staff on issues pending in Docket No. 05-00258.)

At the Status Conference, Monica Smith-Ashford, the TRA counsel assigned to Docket No. 05-00253, informed the parties in Docket No. 05-00258 that the Authority staff does not intend to meet with Atmos regarding Docket No. 05-00253 until completion of both phases of Docket No. 05-00258. *Id.* at 40. Under the circumstances, the Consumer Advocate believes that Ms. Smith-Ashford's approach is correct. It would be clearly inappropriate for members of the Authority or its advisory staff to engage in *ex parte* discussions, either directly or indirectly, on issues that are being litigated in a contested case. *See* Tenn. Code Ann. § 4-5-304(a) (2005). The Consumer Advocate, therefore, objects to Atmos's Request to the extent it seeks to initiate such discussions.

For the foregoing reasons, the Consumer Advocate urges the members of the Authority and its advisory staff to refrain from discussing the merits of asset management issues with Atmos until Docket No. 05-00258 is completed.

Respectfully submitted,

Michael E. Moore
Acting Attorney General
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Dated: October 4, 2006

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being forwarded via electronic mail and U.S. mail, to:

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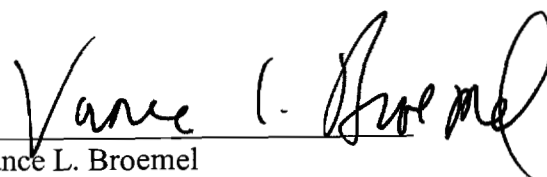
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