



BOULT - CUMMINGS®
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06 JUN 19 PM 12 01
June 19, 2006

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

TH REGULATORY AUTHORITY
DOCKET ROOM

Re: *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 Number: 05-00258

Dear Chairman Jones:

Please accept for filing in the above-captioned proceeding the attached affidavit. It accompanies the letter filed by the Atmos Intervention Group on June 16, 2006.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 
Henry Walker

HW/djc
Enclosure
cc: Parties of record

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

June 16, 2006

*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

AFFIDAVIT OF EARL BURTON

I, Earl Burton, after being duly sworn, submit the following statement:

1. I am owner of Tennessee Energy Consultants, a natural gas and energy consulting firm managing natural gas and energy costs for clients in the State of Tennessee including numerous clients served by Atmos Energy Corporation.
2. I currently have clients that are members of the Atmos Intervention Group (AIG) I, and have solicited the support of numerous Atmos Energy customers to convey the benefits of joining the Atmos Intervention Group.
3. The AIG consists of a group of natural gas users that have an interest in lower natural gas distribution rates and other service offerings that will assist them in managing natural gas costs.
4. Based on my conversations with members of AIG, I have learned that most of our AIG customers have serious concerns regarding the disclosure of their names in this rate proceeding for the following reasons:
 - a. **Credit.** Many large gas users need a considerable amount of credit through their natural gas supplier and Atmos Energy Marketing (AEM), an affiliate of Atmos Energy, serves most of AIG members. Gas marketers often require customers to put up collateral in order to continue natural gas deliveries. If AEM were to impose such a requirement, it would place a financial hardship on many customers with marginal credit ratings. AIG members are concerned that if Atmos Energy learned that they were members of AIG, AEM would require that customer to put up collateral to continue receiving service. I would quote the gas consultant from one of Atmos Energy industrial gas users, "Atmos

Energy Marketing is the only gas marketer that will serve us without collateral, and we declined participation [in AIG] for this reason.”

b. **Curtailments:** Natural gas supply and delivery is very critical to the large gas users of AIG, and many customers are served by Atmos Rate 250 schedule that gives the company the right to curtail natural gas deliveries on peak days. Given the critical importance of the reliability of natural gas to AIG members, and concerns that Atmos Energy has the ability to increase the frequency of curtailments, AIG members are very concerned with confidentiality of disclosing their identity in this rate proceeding. As one potential AIG member said, “We have problems with our propane system, and if we participate, we do not want to risk any chance of more curtailments. Confidentiality is very important to us participating in this intervention.”

c. **Atmos Energy Marketing controls regulated capacity:** I have observed that under the current asset management arrangement between Atmos Energy and their marketing affiliate, AEM, AIG members and Atmos customers considering participating in the intervention are captive to Atmos Energy or the marketing affiliate on gas supply and delivery. In many service areas of Atmos, AEM controls all of the primary capacity on the interstate pipeline, and in some cases, the capacity is fully subscribed by Atmos. Therefore, transportation customers have no other options than to transport gas through Atmos Energy Marketing. I have observed that this gives the Atmos Energy Marketing a virtual monopoly on transporting natural gas to many of Atmos Energy’s customers and contributes to higher costs for Atmos transportation customers. Atmos Energy Marketing uses this asset management control to achieve a very high market share of buying gas for Atmos customers, and also discourages competition since they claim in many cases that customers will incur additional penalties and costs with a competitive shipper. This further validates our observation that Atmos Energy customers are led to be captive to Atmos Energy and Atmos Energy Marketing, and do not want to compromise their confidentiality fearing retaliation since they may not have a competitive option for procuring their natural gas.

In consideration of the above critical factors that impact the business operations of AIG members that are materially impacted by this rate proceeding, confidentiality is of utmost

importance for AIG. Based on my discussions with AIG members and potential members, many of them fear retaliation from Atmos Energy and/or AEM if the customer's name is revealed in this proceeding.

5. Further the Affiant saith naught.

Dated this 16 day of June, 2006.

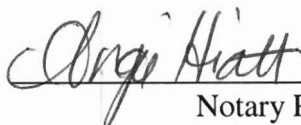


Earl Burton

State of Tennessee)
County of Hamilton)

Personally appeared before me, Angie Hiatt, a Notary Public in and for said State and County, Earl Burton, and within named affiant, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal at office, on this 16 day of June 2006.



Notary Public

My Commission Expires: My Commission Expires February 4, 2009

