

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

IN RE: PETITION TO OPEN AN )  
INVESTIGATION TO DETERMINE )  
WHETHER ATMOS ENERGY CORP. )  
SHOULD BE REQUIRED BY THE TRA ) Docket No. 05-00258  
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 )

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**ATMOS ENERGY CORPORATIONS FIRST REQUESTS FOR  
INFORMATION FROM THE STAFF**

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**DEFINITIONS**

A. “**PERSON(S)**” means all individuals and entities, including, without limitation, individuals, sole proprietorships, associations, companies, partnerships, joint ventures, corporations, authorities, and government or municipal entities.

B. “Or” means “and/or.” “And” means “and/or.”

C. “**STAFF**” shall mean the Tennessee Regulatory Authority staff, and each of its attorneys, agents, representatives, employees, subsidiaries, accountants, analysts, economists, and any other PERSONS acting or purporting to act on its behalf.

D. “**CAPD**” shall mean the Consumer Advocate and Protection Division of the Attorney General’s Office, and each of its attorneys, agents, representatives, employees, subsidiaries, accountants, analysts, economists, and any other PERSONS acting or purporting to act on its behalf.

E. **“INTERVENTION GROUP”** shall mean the Intervention Group, represented by Henry Walker of Boult Cummings Conners & Berry P.L.C. and consisting of Berkline and Koch Foods and all attorneys, agents, representatives, staff, employees, subsidiaries, accountants, and any other PERSONS or entities acting or purporting to act on behalf of the INTERVENTION GROUP, Berkline, and Koch Foods.

F. **“ATMOS”** shall mean Atmos Energy Corporation and all attorneys, agents, representatives, staff, employees, subsidiaries, accountants, and any other PERSONS or entities acting or purporting to act on the ATMOS’ behalf.

G. **“REFER(S) TO”** or **“RELATE(S) TO”** or **“RELATING TO”** mean to be in any way logically or factually connected with the matter stated in describing the document or information, including, but not limited to, referring to, sharing, describing, concerning, containing, embodying, evidencing, analyzing, supporting, identifying, stating, reflecting, contradicting, rebutting, inconsistent with, dealing with, bearing upon, or in any way pertaining to, directly or indirectly.

H. Terms in the plural include the singular, and terms in the singular include the plural.

I. Terms referring to a gender include all genders.

J. The term **“COMPUTER FILES”** means all computer files and written, recorded, and graphic materials of every kind in your possession, custody or control and includes any medium upon which intelligence or information can be recorded or retrieved, electronic correspondence, and drafts of documents, copies of documents that are not identical duplicates of the originals, and copies of the documents the originals of which are not in your possession, custody or control. The term “computer files” includes, but is not limited to, information stored

in, or accessible through, computer or other information retrieval systems. The term “computer files” includes documents that exist in machine-readable form, including documents stored in personal computers, portable computers, workstations, minicomputers, mainframes, servers, backup disks and tapes, archived disks and tapes, CD Rom, worm drives, DVD drives, and other forms of offline storage, whether on or off your premises. Electronic mail messages should also be provided, even if only available on backup or archived tapes or disks. The computer files shall be printed and produced in hard copy and produced in machine-readable form, together with instructions and all other materials, means and devices necessary to use, gather, or interpret the data or format of the computer files.

K. “**DOCUMENT**” means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limiting the generality of the foregoing, COMPUTER FILES and every writing or record of every type and description in your possession, custody or control, or in the possession, custody or control of your attorneys or agents, including, but not limited to, the original and each copy, regardless of origin and location, of any COMPUTER FILES; correspondence; letter; memorandum; invoice; bill; order form; receipt; financial statement; depreciation schedule; appraisal; accounting entry; diary; calendar; travel calendar; telex; telegram; notes or sound recording of any type of personal or telephone conversation or of meetings or conferences; cable; report; record; study; analysis; results of investigation; review; contract; agreement; deed; financing statement; continuation statement; termination statement; loan inquiry or request; loan approval; loan commitment; list of inventory, equipment, materials, supplies, property or assets of any nature or type; statistical record; ledger; book of accounts; voucher; travel voucher; bank check (whether canceled or otherwise); invoice; stenographer notebook; desk calendar; appointment book; diary; expense account record; handwritten note;

chart; paper; print; drawing; sketch; index; list; tape; photograph; microfilm; data sheet or data processing card; discovery responses, TRA filings, testimony, working papers, spreadsheets, tariffs, drafts and rate filings; or papers similar to any of the foregoing; or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in your possession, custody or control or which was, but is no longer in your possession, custody or control.

L. **“IDENTIFY”** when used with respect to a DOCUMENT(s) or written communication means:

1. Specify the nature of the DOCUMENT (e.g., letters, memoranda, press release, written agreements, telegrams, etc.);
2. State the date, if any, appearing on the DOCUMENT when it was prepared;
3. Identify each PERSON who wrote, signed, dictated, or otherwise participated in the preparation of the DOCUMENT;
4. Identify each PERSON, if any, who was an addressee of the DOCUMENT or otherwise received a copy of the DOCUMENT;
5. If it now exists, identify each PERSON having custody of the DOCUMENT;
6. State when and how it came to be in your possession or subject to your control; and,
7. State the substance of the information contained in the DOCUMENT or communication. If such DOCUMENT was, but no longer is, in your possession or subject to your control, state what disposition was made of it.

M. **“IDENTIFY”** when used with respect to a PERSON or PERSONS means:

1. State the name, address(es), and day-time telephone number(s) of such PERSON; and
2. Note the name of the present employer(s) and job title, if any, of such PERSON.

## **REQUESTS**

**REQUEST NO. 1.** PRODUCE all DOCUMENTS related to the ATMOS Show Cause Petition, the Staff investigative report, or to these proceedings which were exchanged by and between any member of one or more of the following: (i) the CAPD, (ii) the STAFF, and/or the INTERVENTION GROUP. This request includes all DOCUMENTS, as defined above, including e-mails, correspondence, notes, memoranda, drafts, edits, and other COMMUNICATIONS between or among the foregoing PERSONS.

**ANSWER:**

## **QUESTIONS FOR STAFF WITNESS JERRY KETTLES**

**REQUEST NO. 2.** Please produce all DOCUMENTS that you (Jerry Kettles) relied upon, referenced, created, or otherwise reviewed in preparation of your testimony. This request includes all work papers, reference sources, financial information, discovery responses, e-mails and other materials. Please produce working Microsoft Excel files for all work papers and exhibits.

**ANSWER:**

**REQUEST NO. 3.** On page 1, line 12 on Staff Witness Kettles Prefiled Direct Testimony of Staff Witness Jerry Kettles, he mentions the completion of his dissertation "for a Ph. D. in Economics." Please provide the following information:

- (i.) The topic of Mr. Kettles' dissertation.
- (ii.) A prospectus of the dissertation topic, if one exists.
- (iii.) A list of Finance and Industrial Organization courses that Mr. Kettles satisfactorily completed during the course work phase of his Ph. D. program.
- (iv.) The date at which Mr. Kettles completed the course work phase of his Ph. D. program.

**ANSWER:**

**REQUEST NO. 4.** On page 2, lines 8-12, you stated that you “chose September 30, 2006 as the end-point of [your] forecast.” Explain why you believe the use of 12 months ended September 30, 2006 is appropriate for these proceedings. Please produce all facts and other evidence that supports the appropriateness of this attrition year, as well as any pages and specific references of any treatises, textbooks, articles, caselaw, published studies or other authoritative texts that support use of this attrition year.

**ANSWER:**

**REQUEST NO. 5.** You “joined the TRA in June 200 [and] have held the position of TRA Economist since 2002.” During the time you have been at the TRA, please IDENTIFY:

- (i.) The TRA’s policies and procedures during that time with regard to the appropriate attrition year to be used in setting rates; and
- (ii.) Any case in which the TRA used an attrition year that was not forward looking from the date of the order.

**ANSWER:**

**REQUEST NO. 6.** For each gas rate case in Tennessee which you have been involved in any capacity, please IDENTIFY:

- (i.) The date of the Order; and
- (ii.) The attrition year used.

**ANSWER:**

**REQUEST NO. 7.** On page 11, lines 8 and 9 of the Prefiled Direct Testimony of Staff Witness Jerry Kettles, he determined that “a risk premium of 7% is appropriate based upon a prevailing market return of 12.5%.”

- (i.) Did Staff Witness Kettles calculate the value of the “prevailing market return of 12.5%”?
- (ii.) If the response to (i) is “yes,” then please note the work papers where Mr. Kettles made this calculation and explain all of the calculations that he used to determine the “prevailing market return of 12.5%”.
- (iii.) If the response to (i) is “no,” then please IDENTIFY Mr. Kettles’ source and explain how he used this source to make this determination.

**ANSWER:**

**REQUEST NO. 8.** Please IDENTIFY each and every reason why your testimony differs from the testimony on CAPD in this case on the issue of the revenue surplus. For instance, please IDENTIFY why:

- (i.) **Your calculated Rate of Return for ATMOS of 7.916%** (with a Rate of Equity of 10.75% and Long Term Debt Rate of 5.77%) **is more appropriate than the Rate of Return calculated by Mr. Brown of 6.564%** (with a Rate of Equity of 8%, a Long Term Debt Rate of 5.52%, and Short Term Debt Rate of 5.09%);
- (ii.) **Your capital structure** (56.91% Equity, 43.09% Long Term Debt, and no Short Term Debt) **is more appropriate than the capital structure used by Mr. Brown** (44.3% Equity, 43.1% Long Term Debt, and 12.6% Short Term Debt)

**ANSWER:**

**REQUEST NO. 9.** In regard to Exhibit 1, Schedule JLK-1 of the Prefiled Direct Testimony of Staff Witness Kettles, please IDENTIFY:

- (i.) All adjustments that Mr.Kettles performed to ATMOS Energy's Year-End 2005 capital structure to develop his projected 2006 capital structure;
- (ii.) And explain any calculations that Mr. Kettles performed to develop these adjustments.
- (iii.) And provide and note all source DOCUMENTs and workpapers Mr. Kettles used in making these adjustments in (a) to ATMOS Energy's capital structure.

**ANSWER:**



**REQUEST NO. 10.** On page 14, at lines 9-10, of your testimony, you note that a DCF model will approximate “the marginal cost of equity for a firm. That is, it represents the minimum equity return required to attract investment in common stock.” Please IDENTIFY

- (i.) An estimate of what percentage of the time a DCF-based estimate will be below the “minimum equity return required to attract investment in common stock?”;
- (ii.) And provide all citations and research results upon which Mr. Kettles bases his opinion.

**ANSWER:**

**QUESTIONS FOR STAFF WITNESS DAVID FOSTER**

**REQUEST NO. 11.** Please produce all DOCUMENTS that you (David Foster) relied upon, referenced, created, or otherwise reviewed in preparation of your testimony. This request includes all work papers, reference sources, financial information, discovery responses, e-mails and other materials. Please produce working Microsoft Excel files for all work papers and exhibits.

**ANSWER:**

**REQUEST NO. 12.** On page 2 of your testimony, you IDENTIFY your purpose as to “support the calculations and exhibits provided by the Consumer Advocate and Protective Division (CAPD) relating to net operating income and rate base.” Please IDENTIFY exactly what you did to independently verify the CAPD’s calculations and Exhibits.

**ANSWER:**

**REQUEST NO. 13.** Produce copies of DOCUMENTS constituting any testimony (whether prefiled testimony or transcripts of live testimony) which you have given before the Tennessee Regulatory Authority.

**ANSWER:**

**REQUEST NO. 14.** Do you believe that the use of 12 months ended September 30, 2006 is appropriate for these proceedings? If so, please explain why. Please produce all facts and other evidence that supports the appropriateness of this attrition year, as well as any pages and specific

references of any treatises, textbooks, articles, caselaw, published studies or other authoritative texts that support use of this attrition year.

**ANSWER:**

**REQUEST NO. 15.** On page 1 of your testimony, you state that you have “twenty (20) years experience in the field of utility ratemaking and regulatory accounting with the TRA and its predecessor agency, the Tennessee Public Service Commission (“TPSC”).” Further, you state that you “have participated in numerous utility rate cases and earnings reviews, which have included the development of financial exhibits and rate design proposals presented before the TRA and the TPSC to aid in establishing just and reasonable rates.” Please IDENTIFY:

- (i.) The TRA’s policies and procedures with regard to the appropriate attrition year to be used in setting rates;
- (ii.) Any case in which the TRA used an attrition year that was not forward looking from the date of the order; and
- (iii.) Provide copies of any testimony which you presented during your years in the field of utility ratemaking and regulatory accounting where you have testified on an attrition year.

**ANSWER:**

**REQUEST NO. 16.** For each gas rate case in which you have been involved in any capacity, please IDENTIFY:

- (i.) The date of the Order; and
- (ii.) The attrition year used.

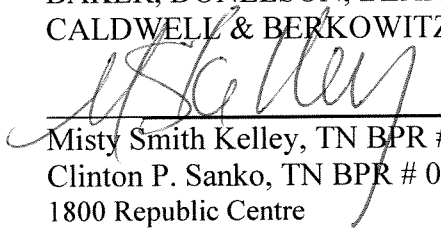
**ANSWER:**

**REQUEST NO. 17.** On page 1 of your testimony, you state that you are “an active member on the National Association of Regulatory Accounting and Finance, Gas and Telecommunications.” Do you disagree with the NARUC resolutions referenced on pages 7 and 8 the testimony of Patricia J. Childers that encouraged regulators to approve decoupling mechanisms for the utilities they regulate? Did you have any participation in discussing those resolutions? Please produce all DOCUMENTS that you have which reference NARUC and decoupling.

**ANSWER:**

Respectfully Submitted,

BAKER, DONELSON, BEARMAN  
CALDWELL & BERKOWITZ



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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been e-mailed or faxed and mailed to the following parties of interest this 21st day of July, 2006.

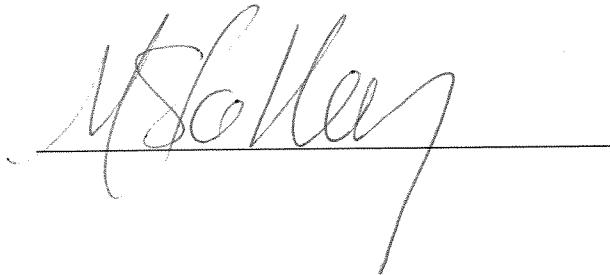
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A handwritten signature in dark ink, appearing to read "J. W. Luna", is written over a horizontal line.