

Before the

TENNESSEE REGULATORY AUTHORITY

**IN RE: REQUEST FOR AN ADJUSTMENT OF THE RATES AND CHARGES
OF ATMOS ENERGY CORPORATION**

DOCKET NO. 05-00258

**REBUTTAL TESTIMONY
OF
DANIEL W. McCORMAC, CPA**

August 18, 2006

BEFORE THE TENNESSEE REGULATORY AUTHORITY


AT NASHVILLE, TENNESSEE

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OF ATMOS ENERGY CORPORATION**

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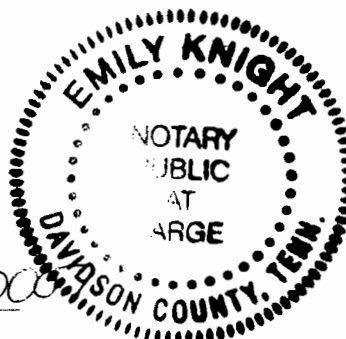
I, Daniel W. McCormac, Coordinator of Analysts for the Consumer Advocate and Protection Division of the Attorney General's Office, hereby certify that the attached Testimony represents my opinion in the above-referenced case and the opinion of the Consumer Advocate and Protection Division.


DANIEL W. McCORMAC

Sworn to and subscribed before me
this 16th day of August, 2006.


NOTARY PUBLIC

My commission expires: Sept. 22, 2007



My Commission Expires SEPT. 22, 2007

1 **Q. Would you state your name for the record?**

2 A. My name is Daniel W. McCormac.

3

4 **Q. By whom are you employed and what is your position?**

5 A. I am employed by the Attorney General's Office as Coordinator of Analysts for the
6 Consumer Advocate and Protection Division.

7

8 **Q. Are you the same Dan McCormac that filed testimony in this docket on July 17,**
9 **2006?**

10 A. Yes.

11

12 **Q. What is the scope and purpose this rebuttal testimony?**

13 A. This testimony represents the views of the Consumer Advocate and Protection
14 Division (CAPD) regarding the appropriate revenues, rate design, and test year to be
15 used in measuring the earnings of Atmos Energy Corporation in Tennessee.

16

17 **Q. Please give a summary of your testimony.**

18 A. Based on the information received from Atmos, the revenues included in the CAPD's
19 filing on July 17, 2006 are correct. The test year ended September 30, 2006 is a
20 reasonable test year to use to determine the revenue requirements of Atmos. The
21 CAPD supports conservation, but the rate design proposed by Atmos does not
22 encourage conservation. The Authority should consider the advantages and
23 disadvantages of alternative rate designs as part of the Home Energy Conservation
24 Task Force prior to establishing any conservation policy.

25

26 **Q. Please address the difference in revenues used by Atmos compared with your**
27 **estimate of revenues.**

28 A. The gross profits included in the CAPD's filing on July 17, 2006 were based on
29 Atmos' report as of March 31, 2006. Atmos has confirmed that these gross profits

1 were properly reported. In response to the CAPD's Second Discovery Item #21,
2 Atmos replied that "The revenues for the 12 months ended March 2006 are correct."
3 In response to the CAPD's Second Discovery Item #23, Atmos replied that "The gas
4 cost or production expense for the 12 months ended March 2006 is correct." My
5 testimony filed on July 17, 2006 clearly shows that Atmos' gross revenues have
6 grown by 1.8% per year for the last eleven years.

7
8 CAPD's Second Discovery Item #26, asked for supporting documentation and
9 explanation of the \$1,818,133 "Barnsley Storage fee" being subtracted from gross
10 margin by company witness Waller on Schedule GW-2 to arrive at his estimate of
11 \$52,080,237. The reply to Item #26 gave no support for adjusting revenues or gross
12 margin.

13
14 In summary, Atmos' gross profit forecast of \$52,080,237 is not supported by the
15 evidence and the CAPD forecast of \$54,491,796 supported by my testimony filed on
16 July 17, 2006 is just and reasonable. However, if the TRA chooses to use a test year
17 ended September 30, 2007, my gross profits forecast would change to \$55,485,148
18 to reflect 18 months growth from March 31, 2006 to September 30, 2007. This
19 produces a difference of \$3,404,911 between my gross profits forecast and Atmos'
20 forecast as shown on line 3 of Exhibit TB-1.

21
22 **Q. Why have you not filed a "priceout" of revenues?**

23
24 A. First, a priceout is not necessary if an "across the board" rate design is adopted. If
25 the TRA approves a revenue reduction, the reduction can easily be converted to a
26 percentage of revenues under current rates. Then all rates can be reduced by that
27 percentage.

28
29 Furthermore, Atmos's responses to our data requests have not produced an accurate

1 picture of volumes that can be relied upon to produce a priceout. For example, the
2 gross profits from sales and transportation booked for the 12 months ended March
3 31, 2006 were \$51,996,187, plus \$1,814,815 in forfeited discounts plus \$184,118 in
4 miscellaneous revenues (DR 2-22 & 24 attachment) or total gross profits of
5 \$53,995,120. However the priceout that Atmos produced for that period shows
6 \$52,453,962 in gross profits from sales (DR 2-27 attachment). I have used the lowest
7 of the two numbers and Atmos has verified that number is correct. I simply added
8 one half year's growth of \$496,676 to produce the estimate of \$54,491,796.

9
10 In addition, the revenues booked for the 12 months ended May 30, 2006 show
11 \$49,668,874 in gross profits from sales and transportation (DR 2-22 & 24
12 attachment) while the priceout that Atmos produced for that period shows
13 \$50,858,058 in gross profits (DR 2-27 attachment). Atmos' projected gross profits
14 from sales for the 12 months ending September 30, 2007 is only \$51,593,479, a
15 **decrease** of \$860,483 from Atmos' priceout for March 31, 2006 of \$52,453,962.
16 This makes no sense in light of the fact that gross profits have grown by more than
17 \$10 million in the last 11 years.

18
19 **Q. Please address the appropriate use of the test year ended September 30, 2006.**

20 A. In my work experience, I have prepared rate cases using historical test periods,
21 historical test periods adjusted for "attrition," and forecasted test periods. In the early
22 years of my career, the Public Service Commission used an historical test period in all
23 rate cases. As high inflation, high toll revenue growth rates, and other factors made
24 the historical test year approach less reliable, the use of historical test periods adjusted
25 for "attrition" or forecast test periods became more prevalent. Now that inflation and
26 growth rates are more subdued, the historical test period again seems to produce a
27 reasonable measure of earnings. This is made clear by Dr. Brown's analysis of
28 ATMOS's earnings for the years since the earnings of United Cities Gas Company
29 were last examined in 1995 (Exhibit CAPD-SB, Chart 1 of 6, filed with our petition

1 on September 15, 2005). This chart shows no “attrition” to Atmos earnings,
2 therefore, there is no need to forecast earnings or provide an “attrition” adjustment
3 to supplement the use of an historical test period.
4

5 **Q. Do you have any concerns regarding Ms. Childers’ testimony?**

6 A. Yes. Ms. Childers’ testimony contains several requests for automatic rate increases.
7 The first is a “Customer Utilization Adjustment.” This is another term for guaranteed
8 recovery of margins and does not encourage conservation.
9

10 Atmos does not need an automatic annual rate increase “to afford the recovery of
11 authorized revenue requirements.” (Childers’ testimony, p. 3) This fact is evidenced by
12 the current excess recovery of \$12 million. The simple fact that Atmos has not had
13 a rate increase in 11 years and now has excessive earnings is positive proof that
14 Atmos does not need automatic protection from normal declining usage per customer.
15

16 Atmos fails to mention the fact that its revenues have grown from \$44.0 million in
17 1995 to \$54.0 million for the 12 months ended March 31, 2006 without the automatic
18 margin protector now proposed by Atmos. (See Exhibits DM1 and DM3 to
19 testimony filed on July 17, 2006.)
20

21 Atmos has not “experienced a decline in usage.” The number of customers is growing
22 faster than the decline in usage per customer resulting in an annual revenue increase
23 of about 1.8% per year for Atmos.
24

25 Ms. Childers states that:

26 “A decoupling mechanism is necessary in order to afford the
27 Company a reasonable opportunity to achieve its authorized revenue
28 requirement.” (Childers’ testimony, p. 4)
29

1 This is simply not accurate. Atmos has exceeded its authorized revenue requirement
2 for years without a rate increase or “decoupling mechanism.” **Atmos was authorized**
3 **gross revenue of \$44.0 million in 1995. As of the 12 months ended March 31,**
4 **2006, Atmos collected \$54.0 million, an over collection of \$10 million.** In
5 addition, Atmos has eliminated many Tennessee jobs and has taken advantage of
6 much lower interest rates while still billing consumers for those costs.

7
8 Ms. Childers also points out the “policy implications of the decoupling mechanism
9 encouraging conservation.” The decoupling mechanism proposed by Atmos would
10 discourage conservation rather than encourage conservation. The proposal would
11 not give consumers the full rate reduction associated with the conservation measures
12 taken. Some of the customer’s savings would be taken back by Atmos in the form of
13 an automatic rate increase. This surcharge for conservation certainly does not provide
14 the correct incentive to consumers. Rather, it discourages conservation.

15
16 In addition, Atmos is proposing to raise the fixed charge on consumers from \$6.00
17 per month to \$12.00 per month in the winter and \$9.00 per month for May through
18 September. This again discourages conservation. Current rates charge an average
19 residential customer a \$6.00 fixed charge and about \$13.00 based on volumes
20 consumed. If consumers reduce consumption by 100%, the current rates would
21 require customers to pay the \$6.00 fixed charge. However, under Atmos new
22 proposed structure, even if a consumer reduced consumption by 100%, their
23 transportation bill could actually increase. With respect to conservation, the current
24 rate structure, which has higher volumetric and lower fixed rates, incents consumers
25 to conserve more than the rate structure proposed by Atmos.

26
27 In fact, reducing the \$6 fixed charge to \$0 and raising the volumetric charge would
28 encourage conservation. The \$6 fixed charge is a higher percentage of the bill for low
29 volume users than it is for high volume users. Stated another way, the average rate

1 paid by low volume users is higher than for the average rate paid by high volume
2 users. For example, if a customer uses 1 MCF, the current delivery charge would be
3 about \$8.66 per MCF ($\$6.00 + \2.66×1). However, if a customer uses 9 MCF, the
4 current delivery charge would be about \$29.94 ($\$6.00 + \2.66×9) or only \$3.33 per
5 MCF. Thus, the \$6 charge discourages conservation. Completely eliminating the
6 customer charge would change the rate to about \$3.80 per MCF for all customers,
7 thus rewarding the smaller user with a lower transportation charge. Thus, a customer
8 using 1 MCF would pay \$3.80 and a customer using 9 MCF would pay \$34.20. This
9 would save the small user \$4.86 ($\$3.80 - \8.66) and cost the large user \$4.26 ($\$34.20 -$
10 $\$29.94$).

11
12 Ms. Childers' testimony also claims that Atmos has very little control over the usage
13 of its customers.

14 "In addition, **the Company has little influence over the level of**
15 **volumes consumed by its customers**, and therefore, should neither
16 be rewarded nor punished financially for the inevitable variations
17 that occur." (Emphasis added, Childers' testimony, pp. 4-5)

18
19 Also Ms. Childers states:

20 "As previously stated the CUA, like the WNA Rider, merely
21 ensures that the Company's ability to recover the costs approved
22 in this docket is not held hostage to fluctuations in gas consumption
23 which are **entirely beyond the company's control**. . . ."
24 (Childers' testimony, p. 8)

25
26 If Atmos has no control over a customers' consumption of gas, a Customer
27 Utilization Adjustment will not benefit consumers. It will only benefit Atmos.

28
29 However, Ms. Childers may be correct in the assumption that reduced usage could
30 bring down energy prices in general if there is a real push for meaningful conservation

1 on a national or global scale. The CAPD supports conservation efforts and looks
2 forward to working with Atmos and other Tennessee stakeholders in the TRA's
3 Home Energy Conservation Task Force to explore ways that consumers can be
4 assisted in conservation efforts without unjustly rewarding the gas companies with
5 automatic rate increases.

6
7 **Q. Does the CAPD have an example of one alternative rate design that would**
8 **encourage conservation without giving Atmos an automatic rate increase?**

9
10 A. Yes. Such a rate design could protect Atmos from reductions in revenues associated
11 with any acceleration in conservation that may occur due to higher prices or efforts
12 taken by Atmos to help consumers reduce usage. In addition, it would not reward
13 Atmos with automatic rate increases over and above the amount necessary to offset
14 the decline in usage caused by real conservation efforts. Ms. Childers states that
15 "for residential consumers, the annual consumption has declined from 71.62 mcf in
16 FY2000 to 65.43 mcf for the year ended March 2006, which represents a rate of
17 decline of approximately 1.5% annually." An alternative rate design could allow
18 Atmos to offset any losses above the 1.5% per customer per year and completely
19 protect Atmos from any future acceleration of conservation. Atmos would be
20 rewarded for working with its customers to reduce consumption beyond the 1.5%
21 which has occurred without Atmos' assistance. Any loss of revenues above the 1.5%
22 would be offset by an increase in volumetric charges.

23
24 One such rate design could reduce the current charge of \$6 per month for residential
25 service to \$0 with a corresponding increase in the volumetric charges. This would
26 provide another incentive for conservation by charging more of the revenue
27 requirement to consumers that consume more than the average amount of gas. This
28 would also help lower income consumers by giving them complete control over their
29 bills and allow a bill to be \$0 if no gas is consumed. One of Atmos' proposed changes

1 is to increase the “seasonal reconnection charge” from \$25 to \$40. If there is no
2 minimum summer bill, another benefit of this rate design is the savings to consumers
3 and to Atmos by avoiding seasonal disconnects and reconnects.
4

5 Ms. Childers proposed a low income senior citizen discount of 100% on the monthly
6 service charge. This rate design would provide a 100% discount for all consumers
7 who choose to conserve. Thus, this type of rate design would more closely align the
8 rates charged to consumers with their efforts to conserve natural gas.
9

10 Atmos refers to its proposal to increase the fixed charge by \$6 per month as a
11 “modest change” (Childers’ testimony, p. 15). A \$6 per month reduction would also
12 be a modest change when coupled with a minor increase in the volumetric charges
13 now being billed by Atmos.
14

15 **Q. Is the CAPD recommending that the TRA approve this alternative rate design**
16 **in this docket?**
17

18 A. No. Further study of this design, as well as other proposals, is needed before deciding
19 if any changes are warranted. Dr. Brown’s testimony filed on July 17, 2006 stated
20 that we generally support across-the-board rate changes and that we have not seen
21 any evidence to suggest the need to alter that approach. The alternative rate design
22 discussed here shows that there are viable alternatives to Atmos’ proposal for a
23 “Customer Utilization Adjustment.” The CAPD requests the Authority to carefully
24 examine this issue as part of the Home Energy Conservation Task Force. This
25 initiative will provide the Authority with an opportunity to carefully consider the
26 advantages and disadvantages of alternative proposals prior to establishing any
27 conservation policy.
28

29 **Q. Please respond to Atmos’ request for a pipeline replacement cost recovery**

1 **surcharge.**

2

3 Atmos also proposed a rate increase of about \$1,800,000 to cover the cost of
4 replacing 10 miles of bare steel pipe. The “recovery mechanism (surcharge) would
5 add a surcharge to collect the costs of replacing pipe during the previous year.” This
6 is another attempt by Atmos to pad its earnings with an annual rate increase at the
7 expense of consumers. The last 11 years have proven that Atmos does not need
8 additional automatic rate increase mechanisms to cover such costs. In this docket, the
9 Authority will establish a “fair rate of return” for Atmos.

10

11 **Q. What is the CAPD’s position on adding new revenue streams for conservation**
12 **and plant replacement?**

13

14 There is simply no need to burden consumers by opening up new revenue streams for
15 Atmos through a new conservation surcharge or a new plant replacement surcharge
16 when experience shows that the fair rate of return set by the Authority will provide
17 Atmos with sufficient earnings.

18

19 **Q. Does this conclude your rebuttal testimony?**

20 **A. Yes.**