BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

September 15, 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

POST HEARING BRIEF OF ATMOS INTERVENTION GROUP

The Atmos Intervention Group ("AIG") recommends that the Tennessee Regulatory Authority ("TRA") take the following steps to bring rate relief to the customers of Atmos Energy Corporation ("Atmos") and to update the utility's tariff structure for the first time in a decade.

1. At the TRA's next agenda conference on September 25, 2006, the TRA should order a reduction in rates consistent with the recommendation of the Consumer Advocate Division of the Office of the Attorney General. This substantial reduction in base rates is long overdue.

2. The Authority should direct the parties to file by October 5, 2006, a proposed rate design to implement the reduction ordered by the agency. The agency should encourage the parties to arrive at a joint rate proposal. All rate proposals submitted to the agency should reflect the following principles:

   a. The rate reduction should be spread proportionally across the residential, commercial and industrial classes, as agreed to by all parties.

   b. Within the commercial and industrial classes, rates should be adjusted to more closely mirror the cost-based, declining block rates found in the tariffs of Nashville Gas and Chattanooga Gas and in the tariffs of Atmos in Kentucky. In making these adjustments, all commercial and industrial customers must receive a net reduction in rates.

c. The parties should negotiate and present to the agency a joint proposal for an "Optional Storage Tariff" similar to that adopted voluntarily by Chattanooga Gas. This tariff would allow transportation customers to bid for any excess gas supplies held by Atmos. The profits from those sales would reduce rates for the utility's other customers.

d. The parties should revise Atmos' tariffs so that balancing rules are applied equally to affiliated and non-affiliated marketers, as required by the TRA's rules on affiliate transactions.

e. Except for the company's proposal to allow independent marketers to avoid balancing penalties by "pooling" (ie., offsetting one customer's over usage against another customer's under usage), the tariff changes proposed by Atmos are not supported by any testimony and should be rejected. Although described as "housekeeping" and "pro-transportation" tariff changes, some amendments proposed by Atmos actually harm transportation customers by imposing stricter balancing rules and higher penalties.

3. The Authority should direct Amos to file a cost-of-service study when it files its next rate case.

4. The agency should adopt a final rate design at the Authority's agenda conference on October 16, 2006. Those rates should go into effect on November 1, 2006.

Discussion

Once the TRA determines the utility's annual revenue requirement, the parties ought to be able to agree, in large part, on a proposed rate design. Until a revenue decision is made, however, it is not possible to finalize a rate design or to know how the Authority's rate reduction will affect individual customers. Therefore, it is important that the Directors make a decision or revenue requirement first and then have before them a specific rate design proposal before making a final decision.

All parties are in agreement that any proposed rate design should distribute rate reductions evenly and proportionally among the customer classes. In regard to changes within the commercial and industrial classes, the Consumer Advocate and Investigate Staff do not oppose the changes proposed by AIG. Even the witnesses for Atmos testified that they do not oppose the concept of declining block rates. They acknowledged that Atmos itself has tariffs in other states with declining block rates and that the utility did not make any such proposals in this case simply because the company had not had time to consider such changes and their impact on customers.

Unfortunately, there is no way to predict how many years may elapse before Atmos' next rate case. Unless the Authority takes this opportunity to modernize the utility's tariffs, it could be another decade before the chance comes again. Atmos' customers should not have to wait that long. As AIG demonstrated at the hearing, Atmos' tariffs, especially its commercial rates, are significantly out-of-date and inconsistent with the principles of cost-based ratemaking long since adopted by the TRA and the state's other gas companies.

Director Miller asked AIG witness Hal Novak at the hearing, "Why should we make these rate changes [recommended by AIG] only for six customers?" (AIG presently has six members.) Director Miller's question misses the point. The rate changes proposed by Mr. Novak ought to be adopted because cost-based ratemaking provides long term efficiencies that benefit all customers – as well as the company – by aligning rates to costs. More importantly, the TRA is obligated to consider, and has the discretion to consider, any reasonable rate design whether proposed by a party or created by the TRA itself. In other words, whether AIG represents six customers or six hundred or even if AIG had made no rate proposals, the TRA should consider any rate design that best serves the public interest and adopt a proposal which is consistent with the agency's decisions adopting rate designs for other natural gas companies in Tennessee.

Atmos should offer a gas storage option to its transportation customers as Chattanooga Gas does. Fully forty percent of the gas that now flows through Atmos belongs to transportation customers, leaving Atmos with underutilized, stored gas. Instead of turning that excess supply over to an "asset manager," Atmos should allow its transportation customers to bid for the gas and then Atmos could use the profits from these sales to reduce the price of gas to other customers. No one disputes Atmos' right to keep (or to recall if necessary) all gas supplies needed to serve its jurisdictional customers. But where excess supplies exist, the profits from the sales of those assets should flow back to Atmos' customers and not be diverted to an "asset manager."

If Atmos is directed to sit down with AIG and hammer out an experimental, optional storage tariff, perhaps to be effective for a limited period, AIG believes that the results will benefit both the regulated utility and its jurisdictional customers.

It is also important that the Authority enforce its affiliate transaction rules and not allow Atmos to continue giving preferential treatment to its affiliate, Atmos Energy Marketing ("AEM"), over other, non-affiliated marketers.[1] Atmos itself acknowledged at the hearing that AEM currently has an advantage over other marketers because Atmos allows AEM – but not others – to pool volumes at the end of each month and thereby avoid balancing penalties. To correct this violation of the affiliate transaction rules, both AIG and Atmos propose allowing other marketers to pool their customers' purchases. Atmos, however, also proposes a new balancing penalty based on daily gas purchases. The company's witness acknowledged that no gas utility in Tennessee presently imposes such a penalty. She also acknowledged that there is no discussion in her testimony explaining the need or the rationale for this proposed change. The TRA should reject it and adopt instead the proposal of AIG that balancing penalties be passed

[1] An Atmos witness named three other gas marketers who compete with AEM but did not dispute that AEM controls about 90% of the market within the Atmos service area.

through to Atmos' customers only when Atmos itself is required to pay a balancing penalty to one of its supplier pipelines.

Finally, gas customers should not have to pay a separate charge for gas metering. Today, Atmos provides meters to sales customers at no additional charge. Transportation customer, however, are required to pay for telemetering equipment, thus discouraging some customers from choosing this tariff option. Given that this case will result in a net rate reduction for all customers and the relatively small impact of including the cost of telemetering equipment in the company's overall cost of service, the TRA should adopt AIG's proposal.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: ______________________________

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CERTIFICATE OF SERVICE

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on this the 15th day of September 2006.

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