

**BEFORE 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)
TO APPEAR AND SHOW CAUSE THAT)
ATMOS ENERGY CORP. IS NOT)
OVERREARING IN VIOLATION OF)
TENNESSEE LAW AND THAT IT IS)
CHARGING RATES THAT ARE JUST)
AND REASONABLE)

Docket No: 05-00258

**RESPONSE OF CHATTANOOGA GAS COMPANY TO THE ISSUES
PROPOSED FOR PHASE II**

Chattanooga Gas Company ("CGC" or "Company") has reviewed the filings made by Atmos Energy Corporation ("Atmos"), the Consumer Advocate and Protection Division ("CAPD"), and the Intervention Group, setting forth proposed issues for Phase II of the Atmos case.¹ It appears that the issues as they have been proposed have the potential to impact all natural gas utilities regulated by the Tennessee Regulatory Authority ("TRA" or "Authority"). CGC is concerned that the Authority will establish policies on various asset management issues that may be applied industry-wide. Thus, CGC believes that it would be more appropriate for the TRA to consider these issues in a rulemaking proceeding than to establish industry-wide policy regarding asset management through an individual company's rate case.²

¹ Phase II of the Atmos case came about upon Atmos' appeal to the panel of the Hearing Officer's order resolving discovery disputes regarding asset management issues. The Tennessee Regulatory Authority ruled to bifurcate into a separate proceeding in the same docket issues raised by the parties relating to asset management and performance-based ratemaking so that those types of issues did not slow down establishing a new rate for Atmos. See Transcript of June 26, 2006 Authority Conference regarding Docket 05-00258.

² See Tennessee Cable Television Association v. Tennessee Public Service Commission, 844 S.W.2d 151, at 162-63 (Tenn. Ct. App. 1992) (deeming rulemaking necessary when the commission's action is concerned with broad policy issues that affect a large segment of a regulated industry and when the commission's action embodies material and significant changes in the commission's ratemaking process for regulated companies).

Alternatively, if the Authority determines to take up these issues during this case, the Authority should clarify that its decisions are limited solely to the facts of the Atmos case and its asset management arrangement and have no precedential effect on other utilities. Nothing should be decided in the Atmos case that will become policy and be implemented for the other natural gas utility companies which have completely different asset management agreements and arrangements than Atmos.

The Atmos case is a unique proceeding and is not a typical rate case. Because the CAPD used in part the rates set in CGC's last rate case to determine whether to initiate a show cause proceeding and force Atmos to defend why its rates should not be reduced, CGC intervened to protect its legal interests surrounding the rates established in its last rate case.³ As the Atmos case has developed, the parties have submitted testimony to support what each party believes would be an appropriate rate of return for Atmos based on Atmos' costs and expenses, capital structure, rate base, and revenue requirement, rather than based on CGC's last rate case.

CGC and Atmos are two very different companies, and they have different asset management agreements and arrangements. For example, CGC has a current asset management agreement that requires its asset manager to share fifty percent (50%) of the net gain earned off non-jurisdictional transactions with CGC's customers. Atmos on the other hand has an asset management agreement that requires its asset manager to pay a fixed fee rather than a percentage of the gain. Because the facts surrounding asset management and affiliate transactions are different for each company, it would be improper for the TRA to make decisions using the facts of the Atmos case that will bind CGC or the other natural gas companies.

³ At the time of CGC's motion to intervene, the TRA had not issued a final written order in CGC's last rate case, and CGC was trying to determine the best course of action for addressing the deficiencies established in its last rate case.

Further, CGC believes that factual issues concerning asset management and the handling of capacity assets are more appropriately handled in the ACA audits and do not impact base rates, the revenue requirement, or any rate design issues included in a rate case. Rather, all costs associated with capacity assets, as well as all revenues from CGC's asset manager's management of the capacity assets, are reviewed in the annual Actual Cost Adjustment ("ACA") audit pursuant to the Purchased Gas Adjustment ("PGA") Rule, and thus are not relevant to determinations to be made in a rate proceeding. The issues proposed for Phase II should be addressed in Atmos' ACA audit for the year ending June 30, 2006, or in the 2005 ACA audit docket if it is still open.⁴

In conclusion, CGC respectfully requests that the TRA convene a rulemaking proceeding to consider the policy issues concerning asset management that are being raised during Phase II of the Atmos docket. In the alternative, CGC requests that the TRA issue an order that its decision in Phase II will be limited to the facts surrounding Atmos and its asset management agreement and will have no precedential or binding effect on CGC or the other natural gas utilities in this jurisdiction.

Respectfully submitted,

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⁴ CGC has been working with the TRA Staff in its 2004 and 2005 ACA audits regarding issues concerning asset management and has revised its tariff to include affiliate transaction guidelines and an RFP bidding process for future asset management agreements.

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded via U.S. Mail, postage pre-paid, and email to the following parties of interest on this the 25th day of September, 2006.

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