

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

September 29, 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

RECEIVED
2006 SEP 29 PM 1:43
T.R.A. DOCKET ROOM

**RESPONSE OF ATMOS INTERVENTION GROUP TO
CHATTANOOGA GAS COMPANY'S MOTION**

The Atmos Intervention Group ("AIG") submits the following response to the September 25, 2006, proposal of Chattanooga Gas Company ("CGC"). CGC suggests that either (1) the issues scheduled to be addressed in Phase II of this rate case ie., issues involving the asset management agreement between Atmos Energy Corporation ("Atmos") and its affiliate Atmos Energy Marketing ("AEM"), be moved to a rulemaking proceeding or (2) the TRA should issue an order stating that any decisions reached in Phase II "are limited solely to the fact of the Atmos case" and will "have no precedential effect on other utilities."

AIG believes that both suggestions are ill advised. As the Authority has already ruled, this is a rate case. See Transcript of TRA agenda conference on June 26, 2006. The case may result in a reduction in Atmos' base rates, its gas costs, or both. Ratemaking is, by definition, a contested case proceeding. See T.C.A. §4-5-102(3) (defining a "contested case" as a proceeding, such as a ratemaking, in which the agency cannot act without granting the parties the opportunity for a hearing).

After the rate case is over, the Authority may decide to open a rulemaking to address policy issues concerning the regulation of asset management agreements and/or relations between regulated gas carriers

and their unregulated affiliates. Such a rulemaking, however, is not a proper forum in which to address the alleged abuses of Atmos which have been raised by the TRA's staff auditors and the parties to this case nor is it a proper forum in which to correct those abuses by adjusting Atmos' rates.


Similarly, it is not appropriate for the Authority to issue an order concerning the precedential impact of decisions reached in Phase II. Obviously, all rate cases are based largely on specific facts which apply only to the parties in that proceeding. On the other hand, the agency has also recognized that legal and policy decisions made in one case, while not binding on non-parties, are nevertheless likely to be followed in subsequent cases of a similar nature.¹

CGC is already a party to this rate case. As the case progresses, CGC is free to point out relevant differences between its operations and those of Atmos. Once a decision is made, CGC is again free to argue that legal and policy issues addressed by the Authority in this case should not be applied to CGC. CGC is not, however, entitled to be immunized now from any "precedential effect" such decisions might have in subsequent proceedings involving other gas companies.

For these reasons, both of CGC's proposals should be rejected.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 

Henry M. Walker (No. 000272)
1600 Division Street, Suite 700
P.O. Box 340025
Nashville, Tennessee 37203
(615) 252-2363

¹ For example, the TRA has stated that decisions reached in the "change-of-law docket, No. 04-00381, are, absent evidence of a change in the underlying facts, likely to be followed in future arbitration cases whether or not the parties to the arbitration cases were also parties in the change-of-law docket.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being forwarded via email and U.S. mail, postage prepaid, to:

Vance L. Broemel
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, TN 37202
vance.broemel@state.tn.us

Joe A. Conner
Misty Smith Kelley
Baker, Donelson, Bearman & Caldwell
1800 Republic Centre
633 Chestnut Street
Chattanooga, TN 37450-1800
mkelley@bakerdonelson.com
jconner@bakerdonelson.com

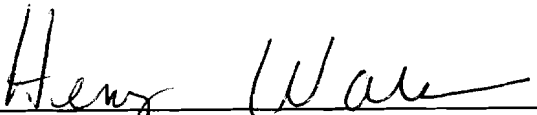
Patricia J. Childers
VP-Regulatory Affairs
Atmos/United Cities Gas Corp.
810 Crescent Centre Drive, Ste. 600
Franklin, TN 37064-5393
pat.childers@atmosenergy.com

J. W. Luna
Farmer & Luna
333 Union Street, Ste. 300
Nashville, TN 37201
jwlunc@farmerluna.com

Gary Hotvedt
Tennessee Regulatory Authority
460 James Robertson Pkwy.
Nashville, TN 37243-0505
gary.hotvedt@state.tn.us

Melvin J. Malone
Miller & Martin
2300, One Nashville Place
150 4th Avenue North
Nashville, TN 37219-2433
mmalone@millermartin.com

on this the 29th day of September 2006.


Henry M. Walker