

**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)	
TENNESSEE REGULATORY)	Docket No. 05-00258
AUTHORITY 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)	

**ATMOS ENERGY CORPORATION'S MOTION FOR A TEMPORARY STAY
OF PHASE TWO PROCEDURAL SCHEDULE**

Atmos Energy Corporation ("AEC"), by and through its undersigned counsel, hereby respectfully requests the Hearing Officer to stay, or in the alternative to modify, the Phase Two Procedural Schedule in TRA Docket No. 05-00258. For its cause, AEC submits the following in support of its motion.

I.

RELEVANT BACKGROUND

On October 6, 2006, the Hearing Officer issued the *Order Adopting Phase Two Issues and Modifying the Phase Two Procedural Schedule* (the "*Scheduling Order*"). Among other things, the *Scheduling Order* modified the Phase Two Procedural Schedule due to certain issues pending in this docket for a determination by the presiding panel. Pursuant to the modifications set forth in the *Scheduling Order*, the Phase Two Procedural Schedule commences on October 19, 2006.

Also on October 6, 2006, the Hearing Officer issued the *Recommendation of the Hearing Officer Regarding the Dismissal of Phase Two and the Need for A Rulemaking to Resolve Asset Management Issues* (the “*Recommendation*”). It appears from the *Recommendation* that the Hearing Officer contemplated the possibility of the *Recommendation* being addressed by the presiding panel during the regularly scheduled October 16, 2006, Authority Conference.¹ According to the Authority’s October 16, 2006, Conference Agenda, the aforementioned outstanding issues in Phase Two of TRA Docket No. 05-00258, including the *Recommendation*, will not be considered by the presiding panel on October 16, 2006.

II.

ARGUMENT AND SUPPORT

Under the circumstances presented, a further modification or stay of the Phase Two Procedural Schedule is imperative. As noted by the Hearing Officer, when the *Scheduling Order* was issued there existed the very real possibility that Phase Two of TRA Docket No. 05-00258, and the outstanding issues pending therein, would be set for consideration by the presiding panel on October 16, 2006. Thus, commencement of the Phase Two Procedural Schedule on October 19, 2006, pursuant to the *Scheduling Order*, though pressing, did not present insurmountable obstacles. Therefore, AEC did not object to the modified procedural schedule.

At present, however, it appears that Phase Two of TRA Docket No. 05-00258 will not be added to the October 16, 2006, Conference Agenda for consideration by the presiding panel.² Moreover, the parties, and perhaps even the Hearing Officer, are unaware as to when the

¹ *Recommendation* at 1.

² In the event that an Addendum to the October 16, 2006, Conference Agenda issued subsequent to October 11, 2006, adding Phase Two of this docket to said Conference Agenda, AEC did not prematurely file an “objection” to the procedural schedule modification set forth in the *Scheduling Order* on or before October 11, 2006.

presiding panel will deliberate the outstanding Phase Two pre-hearing issues. With this in mind, coupled with the unknown outcome of such deliberations, it appears that a temporary stay of the Phase Two Procedural Schedule, as opposed to a modification, would be the more reasoned course. Otherwise, the parties would be compelled to expend resources preparing for, among other things, discovery requests, and perhaps even responses thereto, that they may never issue.


III.

CONCLUSION

For the foregoing reasons, and for good cause shown, AEC respectfully requests that the Phase Two Procedural Schedule be temporarily stayed until such time as the presiding panel addresses the pending issues. In the alternative, AEC requests that the Phase Two Procedural Schedule be modified in light of, and consistent with, the circumstances presented.

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 13th day of October, 2006.

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October 13, 2006

Honorable Ron Jones, Hearing Officer
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

RE: *In Re: Petition to Open An Investigation to Determine Whether Atmos Energy Corp. Should Be Required by The Tennessee Regulatory Authority 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*, TRA Docket No. 05-00258

Dear Hearing Officer Jones:

Due to certain issues pending in the above-captioned matter for a determination by the presiding panel, the Phase Two Procedural Schedule was modified in the *Order Adopting Phase Two Issues and Modifying the Phase Two Procedural Schedule* (the "Order"). Currently, the Phase Two Procedural Schedule commences on October 19, 2006.

According to the Authority's October 16, 2006, Conference Agenda, the aforementioned outstanding issues in Phase Two of TRA Docket No. 05-00258 will not be considered by the presiding panel on October 16, 2006. Under the circumstances, a further modification or stay of the Phase Two Procedural Schedule is imperative.¹ Therefore, Atmos Energy Corporation hereby requests a temporary stay of the Phase Two Procedural Schedule, until such time as the presiding panel addresses the pending issues.²

An additional copy of this filing is enclosed to be "file stamped" for our records.

¹ At present, it is unknown when the Authority will deliberate the outstanding Phase Two procedural issues. With this in mind, coupled with the unknown outcome of such deliberations, it appears that a temporary stay of the Phase Two Procedural Schedule, as opposed to a modification, would be the more reasoned approach. Otherwise, the parties would be compelled to expend resources preparing for discovery requests, and perhaps even responses thereto, that they may never issue.

² In the event that an Addendum to the October 16, 2006, Conference Agenda issued subsequent to October 11, 2006, adding Phase Two of this docket to said Conference Agenda, AEC did not prematurely file an "objection" to the procedural schedule modification set forth in the *Order* on or before October 11, 2006.

Honorable Ron Jones, Hearing Officer
October 13, 2006
Page 2

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Misty Smith Kelley', written in a cursive style.

Misty Smith Kelley
Clinton P. Sanko

MSK/slf
Enclosure
cc: All Parties Of Record