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

**March 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

**COMMENTS OF ATMOS INTERVENTION GROUP  
IN RESPONSE TO MOTION TO RECONSIDER**

The Atmos Intervention Group ("AIG") submits the following comments regarding the Motion for Reconsideration filed by Director Miller on March 23, 2006.

On November 7, 2005, the Authority voted to instruct the TRA staff to investigate the earnings of Atmos Energy Corp. and to file a report recommending whether the Authority should issue a show cause order, pursuant to T.C.A. §65-2-106, requiring Atmos to appear and show cause why the company should not reduce its rates to a just and reasonable level.

In light of the company's current reported earnings and the information submitted to the agency by the Consumer Advocate Division of the Office of Attorney General, the TRA's November 7 decision was the correct action to take. The Authority has an affirmative obligation to "inform itself fully and thoroughly in regard to the affairs of every company doing business in this state and under its jurisdiction." T.C.A. §65-3-106. See T.C.A. §65-4-105(a). Whenever the Authority determines that a regulated company is charging an "unreasonable" or "excessive" rate, the agency has the power (T.C.A. §65-5-201) and the legal duty (T.C.A. §65-3-105) to order a reduction in those rates after hearing and upon notice to the affected parties. T.C.A. §65-5-201.

It has now been approximately five months since the Authority's decision. The staff's investigation should be complete, or nearly so. Once the staff's report is released, the agency can then decide whether to issue a show cause order directing the utility to reduce its rates.

Based on the assumption that the staff report will be issued soon, reconsideration of the Authority's initial decision would be a mistake which would only result in further delay. If the agency abandons its investigation, five months of effort would be largely wasted. The staff's findings would never be completed or made public. If the Consumer Advocate — or any other complainant — sought to prove that Atmos was earning an excessive return, that party would have to repeat much of the work that the Authority's staff has already done. Company officials would not likely cooperate in that effort, except as they are required to do so under the rules of discovery. It would take even longer for consumers to finally get the lower gas rates to which it appears they are legally entitled.

Furthermore, even if this case were changed from a show cause proceeding to a complaint, the investigative staff would still be barred from advising the Directors during a rate case. Those staff members who have spent five months conducting an investigation of the earnings of Atmos cannot legally be reassigned to an advisory role regarding the same matter that has been the subject of their investigation. The Uniform Administrative Procedures Act states that any staff member who has "participated in a determination of probable cause or equivalent preliminary determination in a contested case" may not later serve as an advisor to a Hearing Officer or Director in that same proceeding. T.C.A. §4-5-303(c).

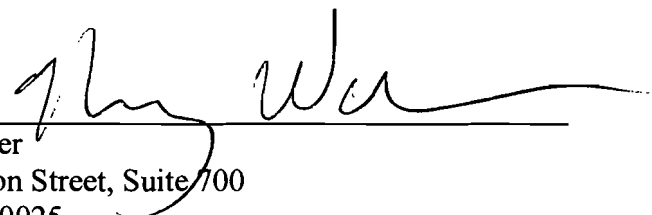
More delay serves no one except Atmos, which has every incentive to postpone a rate case for as long as possible. For these reasons, AIG urges the Authority to stay the course and allow the investigative staff to complete its work and issue its recommendation. Given the

amount of time and resources that have already been committed to this project, any change now in the Authority's direction would only cause additional delay and hurt the public interest.

Respectfully submitted,

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By: \_\_\_\_\_

  
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**CERTIFICATE OF SERVICE**

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


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on this the 29 day of March, 2006.

  
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Henry Walker