

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE: TARIFF FILING TO MODIFY            )  
AND ADD LANGUAGE REGARDING            )   TRA Docket No. 07-00020  
TRANSPORTATION SERVICE                )**

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**RESPONSES AND OBJECTIONS  
OF ATMOS ENERGY CORPORATION  
TO CONSUMER ADVOCATE'S DISCOVERY REQUESTS TO ALL OTHER PARTIES**

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Atmos Energy Corporation ( "AEC") respectfully submits its responses and objections to the First Discovery Requests of the Consumer Advocate and Protection Division ("CAPD").

**GENERAL OBJECTIONS**

A.     AEC objects to the definitions and instructions contained in the requests to the extent that the definitions and instructions attempt to impose on AEC a burden or obligation greater than that required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

B.     AEC objects to the requests to the extent they call for information or documents protected from disclosure by the attorney-client privilege, common interest privilege, work product doctrine, or any other applicable privilege or protection. AEC objects to the requests to the extent that the CAPD is attempting to impose on AEC obligations with regard to the identification of privileged documents beyond those required by the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

C. AEC objects to CAPD's requests to the extent they seek information relating to matters not at issue in this litigation or to the extent they are not reasonably calculated to lead to the discovery of admissible evidence. By providing information in response to these requests, AEC does not concede that such information is relevant, admissible, or discoverable, or that other information on the same or similar subjects would be discoverable. AEC expressly reserves the right to: (a) object to other discovery requests, despite their involving or relating to the subject matter of any of the requests responded to here; and (b) object to the introduction into evidence of any answer or produced document on relevancy or any other grounds.

D. AEC objects to CAPD's requests to the extent that CAPD seeks to require AEC to provide information and produce documents beyond those in its possession, custody, or control as that phrase is used in the *Tennessee Rules of Civil Procedure* and applicable statutes and regulations governing contested case hearings.

F. AEC's objections and responses to these requests are and will be based on information then known to it. AEC reserves the right to amend, modify or supplement its objections and responses if it learns of new information.

G. AEC's objections and responses to these requests are and will be made without waiving or intending to waive the right to object to the use of any information provided in any subsequent proceeding or trial of this or any other action. AEC's responses to these requests are also not a waiver of any of the foregoing objections or any objections it has made or may make with respect to any similar, related, or future request, and AEC specifically reserves the right to interpose any objection to further requests notwithstanding any response or lack of objection made in this response.

H. AEC objects to requests that seek “all” documents pertaining to a certain issue or falling into a certain category. Such requests by their nature are unduly burdensome, and unreasonably cumulative and duplicative. When served on a corporate or other institutional defendant, literal compliance with such a request is impossible to assure. Requiring a party to produce “all” documents showing a certain fact when one document will do is, by its nature, unreasonably cumulative and duplicative. And such requests are often vague and indefinite. Where documents are produced in response to such a request, Atmos has interpreted the request in light of reason and the matters at issue in this case, and has made a reasonable search for responsive documents. In so doing, Atmos has complied with its discovery obligations.

K. For the sake of brevity, AEC expressly incorporates these general objections in response to each of the CAPD’s discovery requests in this case, whether or not separately listed below.

#### **OBJECTIONS AND RESPONSES TO INDIVIDUAL SPECIFIC REQUESTS**

1. Please identify each person whom you expect to call as an expert witness at the hearing on the merits in this docket, and for each such expert witness:

- (a) Identify the field in which the witness is to be offered as an expert;
- (b) Provide complete background information, including the witness’s current employer, as well as his or her educational, professional and employment history, and qualifications within the field in which the witness is expected to testify;
- (c) Identify all publications written or presentations presented in whole or in part by the witness, including either a copy of all such publications and

- presentations or a reference to where such publications and presentations may be publicly obtained;
- (d) Provide the grounds (including without limitation any factual bases) for the opinions to which the witness is expected to testify, and provide a summary of the grounds for each such opinion;
  - (e) Identify any matter in which the expert has testified (through deposition or otherwise) by specifying the name, docket number and forum of each case, the dates of the prior testimony and the subject of the prior testimony, and identify the transcripts of any such testimony;
  - (f) Identify the terms of the retention or engagement of each expert including but not limited to the terms of any retention or engagement letters or agreements relating to his/her engagement, testimony, and opinions as well as the compensation to be paid for the testimony and opinions;
  - (g) Identify any exhibits to be used as a summary of or support for the testimony or opinions provided by the expert; and
  - (h) Please produce copies of all documents, summaries, charts, trade articles, journals, treatises, publications, workpapers, file notes, chart notes, tests, test results, interview notes, and consultation notes provided to, reviewed by, utilized by, relied upon, created by, or produced by any proposed expert witness in evaluating, reaching conclusions or formulating an opinion in this matter.

**RESPONSE:**

In addition to its General Objections, AEC objects to this request on the grounds that it exceeds the permissible bounds of written expert discovery under Rule 26.02(4), which states that a party may, through interrogatories, require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. AEC further objects to subpart (g) on the grounds that it is premature, and to subparts (b) and (c) on the grounds that they are unduly burdensome to the extent that they seek more than a CV and list of publications with appropriate citations and a copy of any publications reasonably available to the expert and not available through published sources. AEC objects to subpart (e) on the further grounds that it is unduly burdensome as written.

Subject to and without waiving these objections, AEC would refer to the witnesses for whom pre-filed testimony has been or will be filed in this case, the exhibits thereto, and the documents that it has produced and will produce in this matter.

2. Please identify the name and location of all persons having knowledge of discoverable matters in this case.

**RESPONSE:**

In addition to its General Objections, AEC objects to this request on the grounds that it is vague and indefinite. Subject to and without waiving these objections, AEC would refer to the pre-filed testimony that it has filed and will file in this case, the exhibits thereto, and the documents that it has produced and will produce in this matter.

3. Please produce copies of all documents referred to or relied upon in responding to these discovery requests.

**RESPONSE:**

In addition to its General Objections, AEC objects to this request as vague and indefinite. Subject to and without waiving this objection, AEC would refer generally to the pre-filed testimony in this matter, the exhibits thereto, and the documents produced in response to these discovery requests and the requests served by the other parties in this case.

4. Please produce copies of all hearing exhibits that you plan to introduce, use, or reference at the hearing on the merits in this docket.

**RESPONSE:**

In addition to its General Objections, AEC objects to this request as premature. Aside from documents identified as exhibits to the pre-filed testimony in this matter, to which reference is made in response to this request, AEC has not determined which documents will be used as hearing exhibits in this matter.

5. Please produce copies of all documents -- including, without limitation, workpapers,

spreadsheets, summaries, charts, notes, exhibits, articles, journals, treatises, periodicals, publications, reports, records, statements, Internet web pages, or financial information -- that you contend support the factual assertions, conclusions, or opinions of any of your witnesses in this matter.

**RESPONSE:**

In addition to its General Objections, AEC objects to this request as vague and indefinite, unreasonably cumulative and duplicative, and unduly burdensome. Subject to and without waiving this objection, AEC would refer generally to the pre-filed testimony in this matter, the exhibits thereto, and the documents produced in response to these discovery requests and the requests served by the other parties in this case.

6. Please produce copies of all documents -- including, without limitation, workpapers, spreadsheets, summaries, charts, notes, exhibits, articles, journals, treatises, periodicals, publications, reports, records, statements, Internet web pages, or financial information -- relied upon by any of your witnesses in evaluating, reaching conclusions, or formulating an opinion in this matter.

**RESPONSE:**

In addition to its General Objections, AEC objects to this request as vague and indefinite, unreasonably cumulative and duplicative, and unduly burdensome. Subject to and without waiving this objection, AEC would refer generally to the pre-filed testimony in this matter, the exhibits thereto, and the documents produced in response to these discovery requests and the requests served

by the other parties in this case.

7. Please produce copies of all documents -- including, without limitation, workpapers, spreadsheets, summaries, charts, notes, and exhibits -- created by or for or prepared by or for any of your witnesses in evaluating, reaching conclusions, or formulating an opinion in this matter.

**RESPONSE:**

In addition to its General Objections, AEC objects to this request as unreasonably cumulative and duplicative, and unduly burdensome. Subject to and without waiving this objection, AEC would refer generally to the pre-filed testimony in this matter, the exhibits thereto, and the documents produced in response to these discovery requests and the requests served by the other parties in this case.

8. Please identify all information, documents and things filed in the docket record, including all responses to discovery of the parties and data requests from the TRA Staff, produced in this docket that you do not agree to the authenticity of such information, documents and things in this proceeding. For each separate piece of information, document and thing produced in this docket and that you contend is not admissible as evidence, describe in specific detail any objection(s) you claim as to admissibility into the evidentiary record in this docket.

**RESPONSE:**



In addition to its general objections, AEC objects to this request on the grounds that it is vague and indefinite in its reference to “information, documents and things.” AEC further objects to this request on the grounds that it is unduly burdensome. Compliance with this request would involve a legal analysis of the admissibility of thousands of pages of documents and all of the other “information” that may be produced in discovery, much of which may never be offered into evidence. The legal cost of such an effort could be enormous, and largely unproductive. Initial legal analysis of the admissibility of documents and other “information” that the CAPD may wish to introduce into evidence should not be shifted onto counsel for AEC. Subject to and without waiving these objections, at an appropriate time after the parties have narrowed the documents they may actually offer at trial, AEC counsel will work with the CAPD in an effort to stipulate the authenticity of such documents, and resolve other evidentiary questions.

9. Please provide all Excel (or other data files) containing the information provided in response to these request items.

**RESPONSE:**

In addition to its general objections, AEC objects to this request on the grounds that in asking for “all” Excel or other data files it is unreasonably cumulative and duplicative and unduly burdensome. Subject to and without waiving these objections, AEC will produce electronic Excel versions of documents when they are available.

10. Please state the issues that you contend to be included in this docket.

**RESPONSE:**

The amendments to AEC's transportation tariff that it has requested in this docket are the issues included in this docket. AEC would further refer to its Petition in this matter, its Motion to Amend abandoning AEC's request to amend the lost and unaccounted for (L&U) provisions of its tariff, and its pre-filed testimony in this matter.

11. Please explain what you contend to be the appropriate resolution of each issue in this docket.

**RESPONSE:**

The appropriate resolution of this matter is the adoption of the transportation tariff amendments requested in AEC's Petition in this matter, as modified by AEC's Motion to Amend.

12. Please describe what you contend to be the appropriate remedies in this docket.

**RESPONSE:**

AEC incorporates by reference its response to DR 1-11 above.

Respectfully submitted,

**NEAL & HARWELL, PLC**

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served, via the method(s) indicated below, on the following counsel of record, this the 27<sup>th</sup> day of November, 2007.

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