

WALLER LANSDEN DORTCH & DAVIS, LLP

NASHVILLE CITY CENTER
511 UNION STREET, SUITE 2700
NASHVILLE, TENNESSEE 37219-8966
(615) 244-6380
FAX: (615) 244-6804
www.wallerlaw.com

1901 SIXTH AVENUE NORTH, SUITE 1400
BIRMINGHAM, ALABAMA 35203-2623
(205) 214-6380

520 SOUTH GRAND AVENUE, SUITE 800
LOS ANGELES, CALIFORNIA 90071
(213) 362-3680

D. Billye Sanders
(615) 850-8951
billye.sanders@wallerlaw.com

December 6, 2007

VIA HAND DELIVERY

Eddie Roberson, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37219

filed electronically in docket office on 12/06/07

Re: Tariff Filing to Modify and Add Language Regarding Transportation
Service
Docket No. 07-00020
Stand Energy Corporation's Reply in Support of Motion to Join Atmos
Energy Marketing as a Party and Motion to Compel

Dear Chairman Roberson:

Enclosed you will find the original and 4 copies of the above referenced
Reply to be filed in this docket. A copy has been filed electronically.

Sincerely,



D. Billye Sanders
Attorney for Stand Energy
Corporation

cc: John M. Dosker
Parties of Record

IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

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

**STAND ENERGY CORPORATION’S REPLY IN SUPPORT OF MOTION TO JOIN
ATMOS ENERGY MARKETING AS A PARTY AND MOTION TO COMPEL**

Comes now Stand Energy Corporation (“Stand Energy”) and files this Reply in Support of its Motion to Join Atmos Energy Marketing as a Party and Motion to Compel in the above-captioned matter. In support of Stand Energy’s motions, Stand Energy respectfully states as follows:

I. Atmos Energy Marketing should be joined as a party.

Rule 19.01 of the Tennessee Rules of Civil Procedure provides, in pertinent part, that “[a] person who is subject to service of process shall be joined as a party if (1) **in the person’s absence complete relief cannot be accorded among those already parties.**” Based on Atmos Energy Corporation’s (“AEC”) discovery responses, AEC has made it absolutely necessary that Atmos Energy Marketing (“AEM”) be joined as a party in this matter. Without the joinder of AEM, Stand Energy can neither ensure that it is afforded the relief nor the information that it is seeking in this matter. Stand Energy needs AEM joined as a party to ensure that Stand Energy has the means to obtain the information and question the witnesses that are necessary to support an order requiring AEC to cease permitting its assets to be improperly utilized by AEM. While AEC argues that a document subpoena would be sufficient to accommodate Stand Energy, AEC’s discovery responses make it clear that a document subpoena would be inadequate. In

addition to documents, Stand Energy may need to examine witnesses regarding the documents' contents. The assets in question are owned by AEC; therefore, AEC should know what assets are being used by AEM. Further, AEM is a division of AEC, which means that AEC has the means and access to answer Interrogatory 1-21. However, rather than answer Interrogatory 1-21, AEC has elected to shield its knowledge in an effort to frustrate Stand Energy's efforts to discover relevant information and to delay these proceedings.

Based on the foregoing, Stand Energy respectfully requests that AEM be joined as a party and that Stand Energy's unopposed request for a brief extension be granted. Alternatively, Stand Energy requests that AEC be ordered to obtain the requested information from its non-utility division as it could and should have done in its initial discovery responses.

II. Atmos Energy Corporation should be required to provide full and complete answers to Stand Energy's discovery requests.

a. Interrogatories 1-6(e), 1-6(g), 1-7(a), and 1-19:

AEC has agreed to produce the information in Interrogatories 1-6(e), 1-6(g), 1-7(a), and 1-19. Based on the foregoing, Stand Energy respectfully requests that AEC be ordered to produce the requested information.

b. Interrogatories 1-10(b):

In response to Interrogatory 1-10(b), AEC objected on the grounds of relevance. The purpose of this proceeding is to determine the proper structure and fairness of the AEC transportation tariffs. Since the proposed charges for services are an issue in this docket and Stand Energy contends that the charges should be based on cost, the amount of revenue received by AEM is relevant and therefore discoverable. Additionally, while AEC seems to imply that the information sought in Interrogatory 1-10(b) is only relevant to the issues pending in *In re*:

Docket to Evaluate Atmos Energy Corporation's Gas Purchases and Related Sharing Incentives, Docket No. 07-00225, there is no guarantee or reason to believe that the asset management proceeding will provide Stand Energy with the relief that it is seeking from the proposed tariff in this proceeding. Based on the foregoing, Stand Energy respectfully requests that AEC be ordered to produce the requested information.

c. Interrogatories 1-11:

In response to Interrogatory 1-11, AEC objected on the grounds of relevance. Again, at the heart of the dispute between Stand Energy and AEC is whether AEC is allowing its affiliated companies, such as AEM, to obtain a competitive advantage over Stand Energy and others in the market. Therefore, the total of AEM revenue and allocation of same is relevant and will also provide Stand Energy with the information necessary to offer recommendations to the TRA. Again, AEC suggests that the information may be relevant in the asset management docket. While it is relevant in that docket as well, it is also relevant in this docket as to the charges for transportation service and this is the docket where relief can be obtained. Based on the foregoing, Stand Energy respectfully requests that AEC be ordered to produce the requested information.

d. Interrogatories 1-17:

Rule 26.02 of the Tennessee Rules of Civil Procedure provides that “[i]t is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.” Accordingly, regardless of whether the TRA ultimately determines that the requested information is inadmissible, AEC should be compelled to respond to Interrogatory 1-17 because it seeks information that is calculated to lead to the discovery of admissible evidence. As Stand Energy


stated in its motion, whether AEC has been involved in prior, similar proceedings and whether AEC now employs any of the individuals that were involved in those proceedings can clearly lead to the discovery of relevant and admissible testimony. The identity of these employees and the relevant regulatory matters can lead to both the discovery of relevant information and disclose the identity of additional persons with knowledge of relevant facts. Both the information and witnesses can prove to be vital to Stand Energy's case. Whether Interrogatory 1-17 seeks information that is ultimately admissible under TRE 404 is not the standard for discovery. However, Interrogatory 1-17 is in fact admissible under Tenn. Evid. Rule 404(b) to prove AEC's actions, motive, intent, opportunity, preparation, and common plan to improperly influence regulatory agencies with respect to the outcome of regulatory proceedings involving tariffs and/or rate increases and put the TRA on notice that it has reason to closely scrutinize AEC's behavior in Tennessee. Based on the foregoing, Stand Energy respectfully requests that AEC be ordered to produce the requested information.

e. Interrogatories 1-18:

AEC failed to give a full and complete answer to Interrogatory 1-18. AEC did not provide the financial harm to AEC's firm sales customers for the past 12 months. AEC's response only tells how harm may occur. In an effort to avoid answering this interrogatory, AEC argues that Stand Energy's motion attempts to compel information that was not requested in Interrogatory 1-18. AEC is wrong. AEC was asked to provide the harm to AEC's firm customers **"for the past 12 months."** If Stand Energy only wanted to know how these customers were harmed, there would have been no need to provide a time frame and Stand Energy would not be seeking to compel the answer to Interrogatory 1-18. Based on the

foregoing, Stand Energy respectfully requests that AEC be ordered to produce the requested information.

Respectfully Submitted,
Stand Energy Corporation

By: 
D. Billye Sanders
Attorney for Stand Energy Corporation

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motions were served upon the following parties of record or as a courtesy, via U.S. Mail postage prepaid, express mail, hand delivery, or electronic transmission, on December 6, 2007.

William T. Ramsey, Esq.
A. Scott Ross, Esq.
Neal & Harwell, PLC
2000 One Nashville Place
150 Fourth Avenue North
Nashville, TN 37219-2498


Vance L. Broemel
Joe Shirley
Stephen Butler
Robert E. Cooper, Jr.
Office of the Attorney General
Consumer Advocate and Protection Division
PO Box 20207
Nashville, TN 37202

Henry Walker
Boult Cummings Conners & Berry, PLLC
1600 Division Street, Ste. 700
P.O. Box 340025
Nashville, TN 37203

John Paris, President
Kentucky/Mid-States Division
Atmos Energy Corporation
2401 New Hartford Road
Owensboro, KY 42303

Douglas C. Walther
Associate General Counsel
Atmos Energy Corporation
Post Office Box 650205
Dallas, TX 75265-0205

Pat Childers
VP-Regulatory Affairs
Atmos/United Cities Gas Corp.
810 Crescent Centre Drive, Ste 600
Franklin, TN 37064-5393


D. Billye Sanders