

WALLER LANSDEN DORTCH & DAVIS, LLP

NASHVILLE CITY CENTER
511 UNION STREET, SUITE 2700
NASHVILLE, TENNESSEE 37219-8996
(615) 244-6380

FAX: (615) 244-6804
www.wallerlaw.com

RECEIVED

1901 SIXTH AVENUE NORTH, SUITE 1400
BIRMINGHAM, ALABAMA 35203-2623
(205) 214-6380
2007 SEP 18 PM 3:51
520 SOUTH GRAND AVENUE, SUITE 800
LOS ANGELES, CALIFORNIA 90071
(213) 362-3680
T.R.A. DOCKET ROOM

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

September 18, 2007

VIA HAND DELIVERY

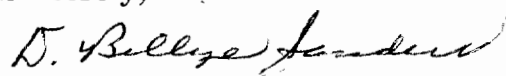
Eddie Roberson, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37219

Re: In Re: Petition of Atmos Energy Corporation for Approval of
Adjustments to its Rates and Revised Tariff
Docket No. 07-00105
Petition of Stand Energy Corporation and Atmos Intervention Group
for Reconsideration of Order Severing the Transportation Tariff and
Asset Management Issues

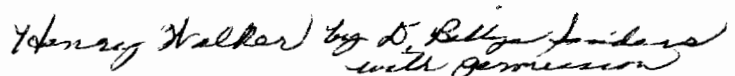
Dear Chairman Roberson:

Enclosed you will find the joint Motion of Stand Energy Corporation
and Atmos Intervention Group for Reconsideration of Order Severing the
Transportation Tariff and Asset Management Issue in this docket.

Sincerely,



D. Billye Sanders
Attorney for Stand Energy
Corporation



Henry Walker
Attorney for Atmos Intervention
Group

September 18, 2007
Page 2

cc: John M. Dosker
Parties of Record

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

IN RE: PETITION OF ATMOS)	
ENERGY CORPORATION FOR)	
APPROVAL OF ADJUSTMENTS)	DOCKET NO. 07-00105
TO ITS RATE AND REVISED TARIFF)	

**MOTION FOR RECONSIDERATION OF ORDER SEVERING THE
TRANSPORTATION TARIFF AND ASSET MANAGEMENT ISSUES**

Stand Energy Corporation (“Stand”) and Atmos Intervention Group (“AIG”, Stand and AIG collectively, the “Movants”) hereby move for reconsideration of the Order of the Hearing Officer, dated September 13, 2007, severing the transportation tariff and asset management issues from this docket. In support of this Motion, the Movants state the following:

This docket involves the Petition of Atmos Energy Corporation (“Atmos”) for an increase in rates and revision of its tariffs. The Movants reasonably believe that proper resolution of the transportation and asset management issues will result in rate reductions for ratepayers. The facts to prove this cannot be obtained without discovery. This rate case docket is the only proceeding that has a statutory deadline by which the decision must be made.¹ Since rates are set prospectively and cannot be reduced retroactively, the ratepayers can never recapture the over earnings that the Atmos shareholders are allowed to retain as a result of a delay in deciding a

¹ Pursuant to T.C.A. §65-5-103 (b)(1), if the TRA has not issued a final order in a rate case after 6 months from the date the petition for rate increase is filed, the petitioner may put the rates into effect under bond.

case. Consequently, Atmos has an interest in spinning off from the rate case and delaying resolution of these issues that could potentially reduce Atmos' revenue requirement and the revenues of its unregulated affiliate.

Asset Management Issues

Atmos has been successful in obtaining delays on the hearing of the asset management issues for nearly two years. On September 16, 2005, The Consumer Advocate and Protection Division of the Attorney General's Office ("CAPD") filed a Petition to open an investigation to determine whether Atmos Energy Corporation should be required by the TRA to appear and show cause that Atmos Energy Corporation is not over earning in violation of Tennessee law and that it is charging rates that are just and reasonable.² Although the TRA determined that Atmos was over earning and reduced its rates, it deferred consideration of the asset management issues, which were referred to as the "Phase II" Issues.

Briefs and oral arguments were heard as to whether the Phase II issues should be heard in the over earnings docket (TRA Docket No. 05-00258) or whether they should be heard in the docket regarding Atmos Energy Corporation's Annual Cost Adjustment (ACA) for the Twelve Months ended June 30, 2005 (TRA Docket No. 05-00253). Ultimately, the TRA decided not hear the asset management issues in either docket, but voted at the August 20, 2007 TRA Conference to hear the asset management issues in a new docket that is to be opened.

As of the date of preparation of this pleading, the new docket has not yet been opened. Consequently, the current docket is the only docket available that brings

² TRA Docket No. 05-00258

with it a statutory deadline for the resolution of the issues. Even if the new docket is opened, Atmos and the agency will not have the same incentive to resolve the case within six (6) months.

Transportation Tariff Issues

On January 10, 2007 Atmos filed revisions to its Transportation Tariffs in Docket No. 07-00020. AIG filed a Petition to Intervene on March 21, 2007, SouthStar Energy Services LLC ("SouthStar") filed a Petition to Intervene on March 26, 2007, AIG filed a Complaint on April 2, 2007, SouthStar filed a Complaint on April 2, 2007 and Stand Energy filed a Petition to Intervene/Complaint on April 3, 2007, which was amended on May 14, 2007. On June 26, 2007 the CAPD filed a Petition to Intervene. On June 26, 2007 the CAPD also filed a Motion to Consolidate the transportation tariff docket (Docket No. 07-00020), the rate increase docket (Docket No. 07-00105) and Atmos' Petition for Approval of Tariff Establishing Environmental Cost Recovery Rider (Docket No. 07-00081).

On July 3, 2007, the Hearing Officer filed an Order recommending the convening of a contested case in the transportation tariff docket. At the August 20, 2007 TRA Conference, the Authority voted to deny the Motion to Consolidate, but accepted the recommendation of the Hearing Officer to convene a contested case.

As of the date of preparation of this pleading, the Petitions to Intervene of Stand, AIG and the others seeking intervention have not yet been acted upon and no procedural schedule has been set in the transportation tariff docket (Docket No.

07-00020). Consequently, the current rate case docket (Docket No. 07-00105) is the only avenue open to Movants for expeditious resolution of these issues and preservation of allegations of error in the procedural schedule for appellate review. As stated above, resolution of these issues is likely to affect the revenue requirement of Atmos and should be addressed in this docket inasmuch as this docket was filed to revise the tariffs of Atmos. However, the parties need discovery to obtain the facts necessary to develop and support their positions.³

Furthermore, in Phase I of the over earnings docket (Docket No. 05-00258), Atmos acknowledged certain discriminatory practices, i.e. Atmos Energy Marketing, LLC (Atmos' marketing affiliate) was allowed to pool customer overages and shortages in daily balancing to avoid fees, but independent marketers were not allowed to pool customer imbalances.⁴ Discretionary language remains in the proposed Transportation Service Schedule 260 that gives Atmos the ability to discriminate regarding imposition of daily scheduling fees for daily transportation imbalances in excess of 10%. Continued delay in addressing these issues will adversely affect the ratepayers and the Atmos customers served by the intervenor/Movants.

Therefore, the Movants respectfully request that the TRA reconsider its decision to defer discovery and consideration of the asset management and transportation tariff issues and revise the procedural schedule in this docket in

³ Note that the issues raised by Mr. Novak in his testimony are not the same as the issues in the transportation tariff docket (TRA Docket No. 07-00020) and do not require further discovery.

⁴ TRA Docket No. 05-00258, Transcript Vol. 9, at pp. 31-34, 48-50 and 71-73 (attached). Pursuant to T.C.A. § 4-5-313(6)(A), Movants respectfully request that the TRA take official notice of the transcript and record of the proceedings in Docket No. 05-00258.

order to allow those issues to be addressed in an expeditious fashion. Movants propose the following procedural schedule to accomplish that goal:

September 21, 2007- Atmos Response to this pleading

September 26, 2007-TRA decision on Motion/Petition

September 28, 2007- Parties issue discovery on Asset Management and Transportation Tariff Issues

October 5, 2007- Atmos Response to Discovery

October 12, 2007- Direct Testimony Atmos

October 19, 2007- Direct Testimony Intervenors

October 26, 2007- Rebuttal Testimony

October 31-November 1, 2007-Hearing

November 14, 2007-Briefs

November 28, 2007-Decision at Special TRA Conference

The proposed schedule goes beyond the November 4, statutory deadline for a decision in the rate case.⁵ However, it further illustrates that even with a compressed procedural schedule in this docket, it will be difficult to decide these issues by the end of the year. This is further support for not deferring the transportation tariff and asset management issues to another docket. Moving these issues to another docket could cause resolution of these issues to be delayed until first or second quarter of 2008. The winter heating season will be over and ratepayers would have been denied the opportunity of relief from excessive rates.

⁵ Movants would be willing to work with the parties and the agency to further compress the schedule.

WHEREFORE, Stand Energy Corporation and Atmos Intervention Group request that their Motion be granted and request such further relief as may be appropriate.

Respectfully Submitted,
Stand Energy Corporation

By: *D. Billye Sanders*

D. Billye Sanders BPR #005631
Attorney for Stand Energy Corporation
Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, Tennessee 37219
Phone: (615) 850-8951

Atmos Intevention Group

By: *Henry Walker by D. Billye Sanders* *with permission*

Henry Walker BPR #000272
Attorney for Atmos Intervention Group
Boult, Cummings, Conners & Berry
1600 Division Street, Suite 700
PO Box 340025
Nashville, TN 37203

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing will be emailed and/or mailed by first class mail to the following parties of record on this 18th day of September, 2007.

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

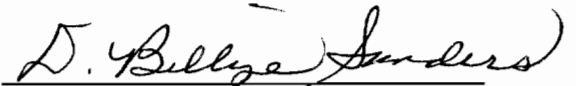
John Paris, President
Kentucky/Mid-States Division
Atmos Energy Corporation
2401 New Hartford Road
Owensboro, KY 42303

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

Vance L. Broemel
Joe Shirley
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
1600 Division Street, Suite 700
PO Box 340025
Nashville, TN 37203


D. Billye Sanders

14 question again. I think you said in your summary that
15 you pass through to customers the penalties that you
16 have to pay. Did I misunderstand that?

17 MR. BERTOTTI: Yes, you did. Any
18 penalties that we charge out to transportation
19 customers and collect, we pass that on back to our
20 sales -- all of our sales customers through a PGA
21 mechanism so that we do not keep any of those revenues
22 or any of those penalties, goes back towards our gas
23 costs.

24 MR. WALKER: Sure. Occasionally, do
25 you impose penalties on your customers even when the

31

NASHVILLE COURT REPORTERS (615) 885-5798

1 pipeline is not penalizing you?

2 MR. BERTOTTI: Yes. We charge those
3 penalties out to the customer. We may not get that
4 penalty back from the pipeline. We have a gas supply
5 department that's working daily to manage our gas,
6 manage our nominations, buy more gas, move gas in and
7 out of storage.

8 We can be incurring costs other than
9 penalties from the pipeline that if we don't have a
10 mechanism to charge penalties back out to the customer,
11 to the transportation customer, then the rest of our
12 ratepayers would be left holding the bag.

13 MR. WALKER: Well, I can understand
14 that. Do you allow your customers, though, if they
15 have an imbalance one day that's offset by an imbalance

16 the other day, can they offset those two and come out
17 without paying a penalty?

18 MR. BERTOTTI: Right now in the
19 monthly balancing, yes, they would offset.

20 MR. WALKER: What about daily
21 balancing?

22 MR. BERTOTTI: We are proposing a
23 daily scheduling fee. That scheduling fee is for the
24 cost if a customer is out of line one day, if he
25 delivers more gas into our system than he uses, we have

32

NASHVILLE COURT REPORTERS (615) 885-5798

1 to put his excess gas into storage.

2 The scheduling fee is designed to
3 recover that cost of storage. Or vice versa, if he
4 uses more gas than he delivers on a daily basis, that
5 excess gas would be coming out of storage. And it's
6 just a way to pass the cost of injection or withdrawal
7 from the storage.

8 MR. WALKER: Now, is any of that in
9 your testimony about the daily penalties?

10 MR. BERTOTTI: No, it's not.

11 MR. WALKER: Does Nashville or
12 Chattanooga have daily penalties?

13 MR. BERTOTTI: I don't believe I have
14 seen those in their tariffs, no.

15 MR. WALKER: And you currently don't
16 have it either?

17 MR. BERTOTTI: No, we currently do not
18 have it either.

19 MR. WALKER: Okay. Wouldn't daily
20 penalties make it a little harder for a customer to
21 shift the transportation because of the risk of having
22 to pay those daily penalties?
23 MR. BERTOTTI: Yes, it would make it
24 harder, but we've done some things, other proposals in
25 the tariff. We have proposed a pooling language that a

33

NASHVILLE COURT REPORTERS (615) 885-5798

□

1 marketer can pool a group of customers together so if
2 one customer is long for the day and the other is short
3 for the day, they'll offset each other. So although it
4 will make it a little bit more difficult, we are trying
5 to give them other options to ease that.
6 MR. WALKER: Well, we agree with the
7 pooling idea.
8 MR. BERTOTTI: Yes.
9 MR. WALKER: But that's not your
10 current tariff, is it?
11 MR. BERTOTTI: Pooling, no, it is not.
12 MR. WALKER: Then why do you permit
13 Atmos Energy Marketing to pool?
14 MR. BERTOTTI: We don't permit them to
15 pool. As their asset manager, they are able to, I
16 guess, reallocate their nominations at the end of the
17 month so that there is no balance for those customers.
18 MR. WALKER: Isn't that the same thing
19 as pooling effectively?
20 MR. BERTOTTI: Effectively it is.

21 MR. WALKER: So they end up not having
22 to pay any penalties at the end of the month?
23 MR. BERTOTTI: No, they don't.
24 MR. WALKER: And yet an independent
25 marketer currently does not have the ability to pool?

34

NASHVILLE COURT REPORTERS (615) 885-5798

□

1 MR. BERTOTTI: Currently. That's why
2 we put the pooling language in the tariff.
3 MR. WALKER: To make the independent
4 marketer more on a par with Atmos Energy Marketing?
5 MR. BERTOTTI: Yes. Well, not to put
6 it on par with Atmos Energy Marketing, but if it's
7 something that benefits any customer if he can pool
8 with other customers.
9 MR. WALKER: Right. And it would
10 allow more independent marketers, I assume, to get into
11 the marketing business because it would be less risky
12 because they could pool and avoid penalties, all other
13 things being equal?
14 MR. BERTOTTI: Yes, it helps them.
15 MR. WALKER: Good, we agree with that.
16 When you said that you thought that interruptible
17 customers had a lower level of service than firm
18 customers, are you comparing interruptible sales to
19 firm transportation?
20 MR. BERTOTTI: No. Interruptible
21 sales to firm sales.
22 MR. WALKER: You're aware that we have
23 proposed the firm transportation tariff?

24 MR. BERTOTTI: Yes.

25 MR. WALKER: Can we agree that firm

35

NASHVILLE COURT REPORTERS (615) 885-5798

□

1 transportation involves a lower level of service from
2 Atmos than interruptible sales because the firm
3 transportation customer doesn't have to work -- has to
4 work -- has to take over all those functions of
5 balancing and arranging for supplies that the sales
6 customers don't?

7 MR. BERTOTTI: Do they have a lower
8 level of service or is there less work on --

9 MR. WALKER: Less work.

10 MR. BERTOTTI: On Atmos' part?

11 MR. WALKER: Yes, less work on Atmos'
12 part.

13 MR. BERTOTTI: No, there's not less
14 work on Atmos' part. Those customers do have to
15 nominate on a daily basis. We have to manage those
16 "noms." We have to compare those nominations daily
17 that come in or compare their nominations to the
18 volumes that they deliver every day, so there's a lot
19 of administrative work for transportation services.

20 MR. WALKER: Let me rephrase it.
21 You're saying that -- let's just take firm sales versus
22 firm transportation. Which involves more work? Are
23 you saying they both involve the same amount of work
24 for Atmos, firm sales as opposed to firm
25 transportation?

25

MR. WALKER: Proportionate.

48

NASHVILLE COURT REPORTERS (615) 885-5798

□

1 MR. SMITH: But I think it's
2 proportionate to their revenue.

3 MR. WALKER: So we can agree that's
4 the way to do it?

5 MR. SMITH: Mm-hmm.

6 MR. WALKER: Good. By the way, for
7 your transportation customers, who does most of their
8 marketing, Mr. Smith?

9 MR. SMITH: Who does most of their
10 marketing?

11 MR. WALKER: Mm-hmm. From whom do
12 your transportation customers generally -- who do they
13 generally go to to do their gas purchasing?

14 MR. SMITH: I don't know in Tennessee.

15 MR. WALKER: Mr. Bertotti, you
16 probably know that.

17 MR. BERTOTTI: Atmos Energy Marketing
18 has the vast majority of customers.

19 MR. WALKER: 90 percent?

20 MR. BERTOTTI: It's close to
21 90 percent. That was in a data request; I don't
22 remember the exact number.

23 MR. WALKER: Now, have you ever had
24 occasion to look at the TRA's Affiliate Transaction
25 Rules?

NASHVILLE COURT REPORTERS (615) 885-5798

□

1 MR. BERTOTTI: No, I have not.

2 MR. WALKER: Are you aware that Atmos
3 Energy Corporation has an obligation to treat the
4 marketing affiliate the same way it treats unaffiliated
5 marketers?

6 MR. BERTOTTI: I am aware of that.

7 MR. WALKER: Can you think of an
8 explanation why your affiliated marketers should have
9 90 percent of the business?

10 MR. BERTOTTI: My assumption would be
11 that they've got more assets on the pipeline, on most
12 of the pipelines. The more assets you have, the more
13 services you can provide to those customers.

14 MR. WALKER: Could it also be because
15 they can avoid paying penalties by offsetting one
16 customer's low usage with another customer's high
17 usage?

18 MR. BERTOTTI: No, I don't think
19 that's the case. The penalties aren't very large. I
20 don't think that would sway a customer's decision. I
21 think you've got more service-related, more options,
22 with something they would look at.

23 MR. WALKER: We can agree that at
24 least under your current tariff that does give them an
25 advantage even if it's not a big one?

NASHVILLE COURT REPORTERS (615) 885-5798

□

1 MR. BERTOTTI: Under the current
2 tariff, yes.
3 MR. WALKER: Oh, I forgot to ask.
4 Mr. Smith, do you have any objection if the TRA were
5 to -- well, Mr. Novak has recommended that the next
6 time you're in here for a rate case that just as
7 Chattanooga was ordered to do, you come in with a class
8 cost of service study. We've both agreed that that can
9 be useful in designing rates. Does the company have
10 any objection to coming in with a class cost of service
11 study in your next rate case?
12 MR. SMITH: I don't believe that the
13 company would have an objection to that.
14 MR. WALKER: Thank you. Nothing
15 further.
16 DIRECTOR JONES: Mr. Malone.
17 MR. MALONE: No questions.
18 DIRECTOR JONES: Ms. Brundige.
19 MS. BRUNDIGE: No questions.
20 DIRECTOR JONES: Ms. Kelley. Or
21 Mr. Sanko.
22 MR. SANKO: I have just a few minor
23 things.
24 ///
25 ///

51

NASHVILLE COURT REPORTERS (615) 885-5798

□

1 REDIRECT EXAMINATION
2 MR. SANKO: Mr. Bertotti, what type of

19 And all of our current transports that do have
20 telemetering actually pay for that device themselves.
21 That's why we're opposed to having all of our customers
22 pay for telemetering for those customers that elect to
23 transport believing that that's the better option for
24 them.

25 MR. WALKER: I appreciate that. That

71

NASHVILLE COURT REPORTERS (615) 885-5798

1 wasn't my question. My question was, does Atmos
2 currently provide customers with the ability to measure
3 gas on a daily basis intra day?

4 MS. CHILDERS: I'm not sure that I'm
5 the one appropriate to answer that question. If they
6 have telemetering they definitely have that ability,
7 and they have to have telemetering to be transport. If
8 they're sales customers, the answer would be, no, they
9 don't have that capability.

10 MR. WALKER: All right. Is there any
11 cost information in your testimony that supports the
12 daily balancing charge?

13 MS. CHILDERS: No, sir.

14 MR. WALKER: You heard Mr. Bertotti
15 say that the ability of Atmos Energy Marketing to pool
16 gave it an advantage even if he said an insignificant
17 advantage over competing marketers. Would you agree
18 with that?

19 MS. CHILDERS: Any asset manager would
20 have that advantage whether it's Atmos Energy Marketing
21 or some of the other marketers that Danny had mentioned

22 in his testimony. If they win the bid and become the
23 asset manager, they have that ability.

24 MR. WALKER: I thought you were
25 proposing to allow a pool manager to avoid having to

72

NASHVILLE COURT REPORTERS (615) 885-5798

□

1 pay imbalance penalties?

2 MS. CHILDERS: Yes, we are proposing a
3 pooling.

4 MR. WALKER: And that pooling is not
5 an option under your current tariff, is it?

6 MS. CHILDERS: No, that is correct.

7 MR. WALKER: And Mr. Bertotti said
8 that allowing that option would allow competing
9 marketers to be on a level playing field with Atmos
10 Energy Marketing when it came to pooling.

11 MS. CHILDERS: Assuming they have
12 assets.

13 MR. WALKER: Right. So you agree that
14 that's intended to level the playing field?

15 MS. CHILDERS: Yes.

16 MR. WALKER: And that's why you
17 proposed it?

18 MS. CHILDERS: Yes.

19 MR. WALKER: Well, are you
20 acknowledging that the playing field right now is not
21 level?

22 MS. CHILDERS: What I am acknowledging
23 is that Atmos Energy Marketing through a bidding

24 process and being able to manage our assets and offer
25 pool capabilities does have currently an advantage over

73

NASHVILLE COURT REPORTERS (615) 885-5798

□

1 marketers that do not have assets of their own.

2 It's my understanding that any
3 marketer can acquire assets of their own by either
4 contacting a pipeline or some other mechanism. But
5 they're certainly not precluded from going out there
6 and developing their own assets.

7 MR. WALKER: Under your current tariff
8 would they be permitted to pool?

9 MS. CHILDERS: No, not under our
10 current tariff.

11 MR. WALKER: So they're at a
12 disadvantage under your current tariff?

13 MS. CHILDERS: That's correct. And if
14 I could add that we started working on these changes to
15 our transportation tariff many months ago. And we
16 actually had several meetings with the staff at the
17 Authority and were going to file this tariff change
18 some months ago when this docket came about and felt
19 like the most expedient thing would be just to roll the
20 proposed tariff changes into this case.

21 MR. WALKER: And can we agree to the
22 extent that competing marketers are at a disadvantage
23 under your current tariff, that that is a violation of
24 the affiliate transaction rules?

25 MS. CHILDERS: No, no, I will not