

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

IN RE: )  
 )  
PETITION OF ATMOS ENERGY ) **DOCKET NO. 07-00105**  
CORPORATION FOR APPROVAL OF )  
ADJUSTMENT OF ITS RATES AND )  
REVISED TARIFF )

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**RESPONSE OF ATMOS ENERGY CORPORATION TO ATMOS INTERVENTION  
GROUP'S MOTION TO FILE SUPPLEMENTAL EXHIBIT**

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Atmos Energy Corporation respectfully submits this response in opposition to the Motion to File Supplemental Exhibit, which AIG filed late in the day on October 4, 2007. Atmos opposes AIG's Motion to File Supplemental Exhibit for many of the same reasons that it opposed AIG's prior Motion for Supplemental Discovery Relating to Rate Design. Both motions represent an eleventh hour effort to submit material long after the deadlines for prefiled direct and rebuttal testimony have passed, and only days before the hearing in this matter. In its latest motion, AIG goes a step farther, seeking to require that Atmos perform and file a monthly customer distribution analysis after the hearing in this case has been completed. AIG's present motion should be denied for many of the same reasons that the Hearing Officer denied its prior motion.

In its prior motion, AIG (joined by Stand) moved to require that Atmos compile and produce a monthly cumulative distribution of sales volumes during the test period for each of the company's rates schedules. AIG made this request so that AIG's witness, Mr. Novak, "can now design specific tariffs to submit to the Authority once Atmos provides the distribution of sales volumes." Joint Motion at 1. Atmos opposed the prior motion for numerous reasons, including

most significantly that it came far too late and long after the deadlines for discovery, and the submission of direct and rebuttal testimony had passed. The relief that AIG requested would have denied Atmos the opportunity to review and analyze AIG's proposed rates and to submit rebuttal testimony and exhibits. Atmos should not be required to just "wing it" on the complex question of what specific rates will hit the agreed revenue target. AIG's current request presents the same problem, only worse.

The Hearing Officer denied AIG's prior motion but granted AIG permission to take an interlocutory appeal to the panel. Due to the short time remaining before the hearing in this matter, a deadline of Wednesday, October 3, 2007 was set for AIG to file its motion for appeal to the panel. AIG did not file such a motion. Instead, AIG pressed ahead with its plan to have Mr. Novak belatedly submit his specific rate design proposals.

What does AIG actually seek to file? As footnote 1 of AIG's brief explains, AIG's current exhibit is just a draft. Because AIG did not seek discovery of the information it would need to set rates for the test period applicable to this case, Mr. Novak has used outdated information that was submitted in the last case (05-00258). *See* Motion at n.1. What AIG actually seeks, is to leave the record open even after Monday's hearing in this matter, to require that Atmos perform the rate distribution analysis AIG sought in its prior Motion for Supplemental Discovery, (which the Hearing Officer denied, and which AIG did not timely appeal), and to then file, at some future time, Mr. Novak's actual testimony on the specific rates he advocates for Atmos in this case.

Atmos opposes AIG's request. What AIG seeks will either deny Atmos any reasonable opportunity to study and submit proof in response to AIG's rate proposals, or will cause a substantial delay in the resolution of this matter while the sales volume distribution analysis is



prepared. Mr. Novak apparently seeks to create rates based upon the actual data (produced at some point after the hearing); to allow some unspecified time for Atmos and the other parties to review and analyze his supplemental testimony and submit rebuttal testimony; and then to convene a follow-up hearing to afford the parties their right to cross-examine his new testimony.

The hearing in this matter is less than two full working days away. All of the pretrial deadlines have passed. AIG failed to avail itself of its opportunity to obtain the information it seeks during the discovery period in this case. The Hearing Officer properly denied AIG's prior last-minute request for supplemental discovery. The case should proceed as scheduled. New rates should go into effect according to the current timetable,<sup>1</sup> and in accordance with the Settlement Agreement entered into between Atmos and the Consumer Advocate Division.

### **CONCLUSION**

For the foregoing reasons, Atmos respectfully opposes AIG's Motion to File Supplemental Exhibit.

Respectfully submitted,

**NEAL & HARWELL, PLC**

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<sup>1</sup> Atmos cannot agree to any further extension of the tariff suspension period.

### CERTIFICATE OF SERVICE

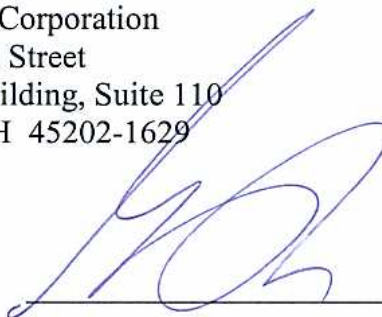
I hereby certify that a copy of the foregoing has been served, via the method(s) indicated below, on the following counsel of record, this the 5 day October 2007.

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