

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

October 5, 2007

*In re: Petition of Atmos Energy Corporation for)
Approval of Adjustment of Its Rates and Revised)
Tariff)*

Docket No. 07-00105

REPLY OF ATMOS INTERVENTION GROUP

The Atmos Intervention Group ("AIG") files this reply to yesterday's filing by the Atmos Energy Corporation ("Atmos" or the "Company") in which the Company opposes AIG's motion to file a supplemental exhibit to the testimony of Mr. Hal Novak.

The objection filed by Atmos reflects a misunderstanding of the rate design process and the purpose of the supplemental exhibit.

As the Tennessee Supreme Court explained in C.F. Industries v. Tenn. P.S.C., 599 S.W.2d 536, 542 (1980), "A fair rate of return to the regulated utility is one thing; the establishment of rates among various customer classes is quite another." Unlike the determination of a utility's annual revenue requirement, the process of designing rates to produce that revenue requirement is a discretionary function in which the agency is free to use its own "regulatory judgment and discretion." Id., at 543. The agency is not required to use a cost study and is not even bound by the parties' recommendations and evidence but, as the agency has sometimes done, may use its own expert judgment in designing rates in a manner not advocated by any party.

Here, Mr. Novak filed testimony advocating, among other things, that Atmos re-design its rates to incorporate declining rate blocks (the more gas the customer uses, the less the cost per

unit) in the commercial and industrial classes. He noted in his testimony, however, that a specific rate design could not be adopted until after the TRA decides the rate case. That point is self-evident. Until the TRA determines (1) how much gas the company is expected to sell during the test period and (2) the revenue needed from those sales to produce the Company's annual revenue requirement, it is not possible to design new tariffs.

Atmos seems not to understand these ratemaking procedures. Ratemaking is a two-part process. The first part establishes a revenue requirement; the second part designs rates to produce that amount of revenue. The supplemental exhibit submitted by Mr. Novak could only have been prepared after the parties arrived at a negotiated settlement regarding the company's revenue requirement. As explained in AIG's Motion, the supplemental exhibit illustrates how the principles discussed in Mr. Novak's prefiled testimony could be used to design specific rates to produce the settlement figure of a \$3.9 million rate increase. The exhibit does not introduce new facts. It merely illustrates the practical application of Mr. Novak's proposed rate design in light of the parties' settlement.

Finally, Atmos makes the remarkable argument that the company should not, under any circumstances, have to do a volume distribution study to update the study submitted by the company in its last rate case. But if the Authority finds that Atmos should adopt declining rate blocks for its commercial and industrial customers, neither the TRA nor the Company could design a new tariff without such a study. Otherwise, there would be no assurance that the new rate design would produce the Company's annual revenue requirement. Such a filing, sometimes called a "price out," would have to be made before the TRA could give final approval to the Company's revised tariffs.

Conclusion

As explained in AIG's Motion, Mr. Novak's supplemental exhibit could have been attached to AIG's post-hearing brief. The exhibit is not intended to expand the evidentiary record. The courts have held that the TRA does not need an evidentiary record to design rates. The exhibit is for illustrative purposes to show how the Company's rates might be designed with declining rate blocks to produce the settlement amount. The Company's protests are based on a misunderstanding of the rate design process and should be disregarded.

Respectfully submitted,
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CERTIFICATE OF SERVICE

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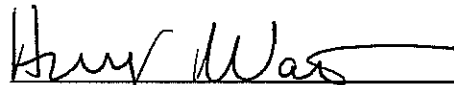
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on this the 5th day of October 2007


Henry Walker