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January 4, 2008

VIA HAND DELIVERY

Honorable Ron Jones, Hearing Officer
c/o Sharla Dillon, Docket & Records Manager
Tennessee Regulatory Authority
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Nashville, TN 37243-0505

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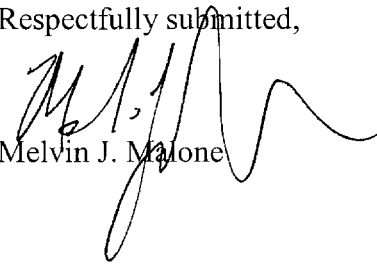
**RE: Docket to Evaluate Atmos Energy Corporation's Gas Purchases and Related
Sharing Incentives, TRA Docket No. 07-00225**

Dear Hearing Officer Jones:

Pursuant to the *Order on the Protective Order Dispute Process*, enclosed please find one (1) original and thirteen (13) copies of *Atmos Energy Marketing, LLC's Brief on Protective Order Disputes* for filing in the above-captioned docket. An additional copy of this document is attached hereto to be "File-Stamped" for our records.

If you have any questions or require additional information, please let us know.

Respectfully submitted,


Melvin J. Malone

clw

c: Parties of Record

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

IN RE:)	
)	
DOCKET TO EVALUATE)	
ATMOS ENERGY CORPORATION'S)	
GAS PURCHASES AND RELATED)	DOCKET NO. 07-00225
SHARING INCENTIVES)	
)	
)	
)	
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**ATMOS ENERGY MARKETING, LLC's BRIEF REGARDING
PROTECTIVE ORDER DISPUTES**

Atmos Energy Marketing, LLC ("AEM"), by and through its undersigned counsel, hereby submits this Brief in support of its positions with respect to the outstanding issues in dispute related to the Protective Order in the above-captioned matter. For the reasons set forth herein, AEM respectfully requests the Tennessee Regulatory Authority ("TRA" or "Authority") to enter the proposed Protective Order in the form attached hereto as **EXHIBIT A**.

I. BACKGROUND AND PERTINENT FACTS

On December 21, 2007, the Hearing Officer entered an *Order on the Protective Order Dispute Process* ("Order") in this matter.¹ In the *Order*, the parties were directed to either file an agreed protective order or, if no agreement is reached, a statement of the disputed issues along with the parties' positions on January 4, 2008.² Despite their best efforts, the parties have not been able to agree upon an appropriate protective order. In accordance with the *Order*, AEM

¹ See *Order on the Protective Order Dispute Process*, TRA Docket No. 07-00225 (Dec. 21, 2007).

² *Id.* ("Whatever the form of the filings to be made on January 4, 2008, all parties shall clearly detail the disputes and set forth their positions with specificity.").

submits this Brief detailing the disputes and specifically setting forth its positions with respect to the entry of a Protective Order in this matter.

In its initial pleading in this docket, Stand Energy Corporation (“Stand”) acknowledged that it is a direct competitor of Atmos Energy Marketing, LLC.³ Specifically, Stand offered as follows:

Stand Energy is an independent marketer of retail energy, including natural gas. Stand Energy competes with Atmos Energy Corporation (Atmos) and/or its affiliate, Atmos Energy Marketing, LLC in Ohio, Virginia, Kentucky and Tennessee.⁴

Moreover, Stand has further disclosed to the Authority that it is “an agent for Harrison Construction . . . in the state of Tennessee.”⁵ Finally, Stand has conceded the absence of any Tennessee customers and no revenue from Tennessee operations in the past two (2) years.⁶

As set forth in more detail below, the foregoing admissions by Stand, taken together, constitute the gravamen of AEM’s concern with respect to confidential, proprietary, and commercially sensitive information and trade secrets that it may be required to produce.

II. POSITIONS OF THE PARTIES

The Protective Order entered in TRA Docket No. 07-00020 generally served as the foundation of preliminary discussions and negotiations towards an Agreed Protective Order in this matter. After initial discussions, two (2) competing drafts of a Protective Order for use in this matter emerged. For ease of reference, the draft Protective Order supported by AEM and Atmos Energy Corporation (“AEC”) is attached hereto as **EXHIBIT A**, and the draft Protective Order advocated by Stand and Atmos Intervention Group (“AIG”) is attached hereto as

³ See *Stand Energy Corporation’s Petition to Intervene*, TRA Docket No. 07-00225 (Nov. 6, 2007).

⁴ *Id.* at 1.

⁵ See, e.g., *Stand Energy Corporation’s Reply to Atmos Energy Corporation’s Response to Petition to Intervene of Stand Energy Corporation and Complaint of Stand Energy Corporation*, TRA Docket No. 07-00020, p. 3 (May 14, 2007).

⁶ See *Response of Stand Energy Corporation to First Discovery Requests of Atmos Energy Corporation*, Nos. 1, 3 and 5, TRA Docket No. 07-00020 (Nov. 27, 2007).

EXHIBIT B.⁷ In large measure, a comparison of the competing drafts reveals the disputed issues. The provisions at issue are redlined in both **EXHIBIT A** and **EXHIBIT B**.

A. Primary Positions In Relation to Exhibit A

In an effort to be responsive to discovery requests and the effective administration of this docket, while simultaneously protecting trade secrets and commercially sensitive information, Exhibit A generally permits the disclosure of such AEM-designated information to the following:

- outside counsel of record for the parties;
- employees of the Office of the Tennessee Attorney General;
- any of the currently disclosed members of AIG or any of their respective employees who have complied in all respects with the provisions of Exhibit A (excluding Tennessee Energy Consultants and any of its owners or employees, including Earl Burton);
- outside consultants and expert witnesses employed or retained by the parties; and
- TRA Directors and members of the TRA Staff.⁸

Under Exhibit A, no employees of either Tennessee Energy Consultants (“TEC”) or Stand, including, but not limited to, any in-house counsel, are permitted, absent order of the Authority, to receive or review, directly or indirectly, commercially sensitive information and trade secrets produced by AEM. This approach is necessary to facilitate the production of requested information and to protect the integrity of the discovery process. Moreover, this approach is consistent with the measures previously ordered by the Authority in TRA Docket No. 05-00258.⁹

⁷ **EXHIBIT A**, in substantially the same form as attached hereto, was circulated among the parties by counsel for AEC, while **EXHIBIT B** was circulated among the parties by counsel for Stand.

⁸ See **EXHIBIT A**, pp. 2-4 (attached hereto).

⁹ See *Order Resolving Discovery and Protective Order Disputes and Requiring Filings*, TRA Docket No. 05-00258, p. 19 (June 14, 2006) (“*Order Resolving Protective Order Disputes*”) (In resolving the question of whether AEM’s

With respect to footnote 2 of Exhibit A, which is deleted in Exhibit B, it should be noted that the Authority has previously concluded that the current asset management agreement referenced therein should be protected from disclosure to AEM competitors.¹⁰

B. Primary Positions In Relation to Exhibit B

Among other things, Exhibit B expands the persons that have access to AEM-produced confidential information, including commercially sensitive information and trade secrets. Specifically, Exhibit B allows for the disclosure of confidential AEM information to John Dosker, Stand's General Counsel, and Mark Ward, Stand's Vice President for Regulatory Affairs.¹¹ The disclosure of highly confidential trade secrets and commercially sensitive information to in-house representatives of a competitor—in this case Stand—is contrary to both well-established law and Authority precedent and should be prohibited by the Authority through the entry of the Protective Order in the form of **EXHIBIT A**.

Other provisions contained in Exhibit B that are not satisfactory to AEM, and therefore objectionable, are as follows: (1) the specific inclusion of a single outside consultant or expert, Hal Novak;¹² (2) the addition of the word “direct,” which clouds and disturbs the effective application of the Protective Order's integrity and ease of implementation;¹³ and (3) the provision that prohibits AEC, a party to this matter, from receiving the same information as other parties, specifically AEM's confidential information.¹⁴

confidential information should be shared with an AEM competitor in this docket, the Authority determined that the Protective Order should “prevent disclosure of any information related to AEM to Mr. Burton.”).

¹⁰ See *infra* n. 20.

¹¹ See **EXHIBIT B**, p. 2, ¶ 3(c) (attached hereto).

¹² *Id.* at p. 3, ¶ 3(e).

¹³ *Id.* at p. 4, ¶ 3(f).

¹⁴ *Id.* at p. 4 (3)(g). During negotiations, neither Stand nor AIG presented a sufficient, justifiable rationale for this provision in a litigation context. If such information is as relevant and material as Stand and AIG tend to suggest, the principle tenets of fairness and due process weigh against the inclusion of such a draconian provision. Moreover, Stand and AIG's arguments with respect to Stand's motion to join AEM in TRA Docket No. 07-00020

The proposed provision in Exhibit B with respect to customer names¹⁵ should not be added to the Protective Order at this time. While this provision may appear at first glance to be workable in “concept” form, it could very easily become unduly burdensome and unwieldy, particularly in the event of a large number of document requests seeking customer specific information. Further, there exists the very real possibility of certain assumptions being made and certain conclusions being drawn from an in-depth and coordinated/correlated analysis of information produced consistent with the proposed provision that would result in unearned economic value being derived from the same.¹⁶

III. DISCUSSION AND ANALYSIS

Given the experience in TRA Docket No. 05-00258 and the discovery requests served herein on December 28, 2007, it is anticipated that currently outstanding and future discovery requests in this matter will involve information that qualifies as highly confidential trade secrets and commercially sensitive information under Tennessee law. A trade secret has been defined under Tennessee law to include information that is maintained as confidential, which derives actual or potential economic value from not being generally known and readily ascertainable by other persons who can obtain economic value from its disclosure or use.¹⁷ Further, under Tennessee case law, a trade secret has been defined as “any formula, process, pattern, device or compilation of information that is used in one’s business and which gives him an opportunity to obtain an advantage over competitors who do not use it.”¹⁸ The Tennessee Rules of Civil

suggest that this provision is, to say the least, inappropriate. *See, e.g., Transcript of Status Conference*, TRA Docket No. 07-00020, pp. 20-22 and 39-45 (Dec. 13, 2007).

¹⁵ *See Exhibit B*, p. 3-4.

¹⁶ *See infra* n. 22.

¹⁷ *See, e.g., Tenn. Code Ann. § 47-25-1702(4).*

¹⁸ *See Hickory Specialties, Inc. v. B&L Labs., Inc.*, 592 S.W.2d 583, 586 (Tenn. Ct. App. 1979).

Procedure specifically protect disclosure of a party's trade secrets. The applicable rule provides as follows:

Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including . . . that a *trade secret* or other confidential research, development, or commercial information *not be disclosed or be disclosed only in a designated way*.¹⁹

With two (2) rounds of discovery remaining, AEM, at this time, cannot possibly fully know the scope of potentially confidential trade secrets and commercially sensitive information that might be implicated in this matter. Still, history dictates that the documents at issue will likely involve the production of highly confidential information.²⁰ In fact, as confirmed by the affidavits of Rob Ellis, the Senior Vice President of Marketing at AEM (attached hereto as **EXHIBIT C** and **EXHIBIT D**, respectively), such information constitutes confidential trade secrets and commercially sensitive information, which is not generally known to, among others, AEM's competitors, such as Stand and TEC, and which is, therefore, economically valuable to AEM. AEM has worked to keep this information confidential and to prevent disclosure to the public in general and its competitors in particular. As such, AEM will suffer economic harm if this information were to be shared with Stand, TEC or any of its other competitors.²¹ Under these circumstances, this information undoubtedly qualifies as trade secret information under Tennessee law.²²

¹⁹ Tenn. R. Civ. P. 26.03(7) (emphasis added).

²⁰ See, e.g., *Order Resolving Protective Order Disputes* at 19. In ruling that an AEM competitor was prohibited from receiving AEM related information, the TRA specifically included balance sheets, income statements, the asset management agreement, AEM's response to AEC's request for proposal, total monthly volumes and total monthly profits. *Id.*

²¹ See *Affidavit of Rob Ellis*, TRA Docket No. 05-00258 (originally attached to AEC's Motion for Protective Order, June 7, 2006) (attached hereto as **EXHIBIT C**). See also *Affidavit of Rob Ellis*, filed herewith as **EXHIBIT D**.

²² See, c.f., *id.* at 17. In ruling that an AEM competitor was prohibited from receiving AEM related information, the Authority concluded that "the requested information should be treated as though it is trade secret information as defined by The Uniform Trade Secret Act." This conclusion was based in part on a determination that, "[a]lthough

Considering the protections afforded to such information under Tennessee law and the law of various other jurisdictions, AEM objects to Stand's and AIG's proposal, as set forth in Exhibit B, that in-house representatives of an AEM competitor have access to AEM's highly confidential trade secret information.

A. Under the Circumstances Presented, In-House Representatives of an AEM Competitor Should Not Have Access to AEM Trade Secrets and Commercially Sensitive Information.

As a number of courts have long recognized, it is often impossible for a person who knows a trade secret to segregate that information from other non-proprietary materials. Thus, in *PepsiCo. v. Redmond*, the court issued an injunction against a former employee because the protected trade secrets were so intertwined with his general knowledge that he could not possibly work without disclosing them.²³ Moreover, in *In re: Remington Arms Co.*, the Eighth Circuit recognized that a protective order does not adequately protect a trade secret because, once the secret is disclosed, there is no remedy to undo the damage.²⁴ As one court noted, disclosure of confidential information "harms the trade secret owner by both depriving him of a property interest . . . and by allowing his competitors to reproduce his work without an equivalent investment of time and money."²⁵ In other words, the "disclosure of trade secrets in litigation,

the specific requests related to AEM may not require the production of information that standing alone derives independent economic value, the information taken as a whole does derive such value in that an expert in this area . . . could make certain assumptions and draw conclusions from an analysis of the information that would derive independent economic value from not being generally known." *Id.* (citing *Wright Med. Tech., Inc. v. Grisoni*, 135 S.W.3d 561, 589 (Tenn. Ct. App. 2001)).

²³ See *PepsiCo. v. Redmond*, 54 F.3d 1262, 1271 (7th Cir. 1995) (finding that the defendant employee would inevitably rely on PepsiCo's trade secrets in his new job). See also *Merck and Co., Inc. v. Lyon*, 941 F. Supp. 1443 (M.D.N.C. 1996).

²⁴ 952 F.2d 1029, 1033 (8th Cir. 1991) (holding that an after-the-fact remedy for the violation of a protective order is "largely ineffectual in a trade secrets case . . . for once the information is wrongfully released, the trade secret is lost forever and no sanction imposed on the violator can retrieve it.").

²⁵ See *Saini v. International Game Technology*, 434 F. Supp.2d 913, 919 (D. Nev. 2006) (citations omitted).

even with an appropriate protective order, could become by indirection the means of ruining an honest and profitable enterprise.”²⁶

It is this strong likelihood of the impossibility to segregate AEM’s trade secret information by Stand’s in-house representatives—and the inevitable harm associated with such a result—that is sufficient to warrant the complete denial of the disclosure of this information to said persons.²⁷ In fact, in the same context regarding the same subject matter, the Authority previously denied an AEM competitor access to AEM’s confidential trade secret materials.²⁸ In that matter, AEC requested that the Protective Order in TRA Docket No. 07-00258 “prohibit[] disclosure to anyone associated with the marketing of services in competition with Atmos Energy Corporation and its affiliates or other producing party.”²⁹ The Authority first specifically found that the information likely to be requested from AEM, when taken as a whole, would derive independent economic value from not being generally known, and that AEM’s competitor—TEC/Earl Burton—could make certain assumptions and draw conclusions from an analysis of the information.³⁰ Further, the Authority held that AEM’s competitor should be prohibited from seeing AEM’s confidential trade secret information because:

clearly, [Earl] Burton cannot wipe clean his memory as to these matters when acting in his role as competitor to AEM. In addition, it may be difficult because of the nature of the information to determine if [Earl] Burton ever actually uses the information in a competitive bid to a potential client in violation of the protective order.³¹

For the very same reasons as those set forth in this earlier opinion regarding the exact same, or substantially similar, subject matter, the Authority should adopt the approach set forth

²⁶ See *Coca-Cola Bottling Co. v. The Coca-Cola Co.*, 107 F.R.D. 288, 290 (D. Del. 1985) (citations omitted).

²⁷ JAMES WM. MOORE ET AL., *MOORE’S FEDERAL PRACTICE*, § 26.105[8][b] (3d ed. 1997) (noting various measures employed by courts in protective orders to protect trade secrets and commercially sensitive information, including restricting access to trial counsel, restricting access to expert witnesses, and barring access by in-house counsel).

²⁸ See *Order Resolving Protective Order Disputes*, pp. 15-20.

²⁹ See *id.* at 15.

³⁰ See *id.* at 17 (citing *Wright Med. Tech., Inc. v. Grisoni*, 135 S.W.3d 561, 589 (Tenn. Ct. App. 2001)).

³¹ See *id.* at 19.

in Exhibit A and continue to prohibit AEM's competitors from gaining access to any documents or information constituting confidential trade secrets or commercially sensitive information of AEM in this matter. As the agency has previously noted, when balancing the potential harm to AEM of disclosure with the effect of preventing disclosure to an AEM competitor, "the harm to AEM is heavier."³²

B. Stand's Own Actions Before the Authority Demonstrate the Risk Inherent in Permitting the Disclosure of AEM Trade Secrets and Commercially Sensitive Information to An AEM Competitor.

The potential for harm, intentional or unintentional, suffered by AEM as a result of any disclosure to John Dosker of AEM's trade secrets or commercially sensitive information clearly outweighs any claimed harm by Stand resulting from his inability to review such documents and/or information. It is well-settled that an in-house counsel's access to an opposing party's confidential trade secret information is not unlimited.³³ In fact, courts have demonstrated an appreciation for the particularly precarious position of in-house counsel with respect to their access to competitor's trade secret information during litigation in reasoning that, "[r]egardless of an occasional statement of some courts to the contrary, house counsel are subject to pressures different from those which outside counsel face, if only that *their own economic well-being is inextricably bound up with their employer's*."³⁴

In determining whether an in-house counsel of a competitor may access a party's confidential trade secret information during litigation, courts in a number of jurisdictions have

³² See *Order Resolving Protective Order Disputes* at 19.

³³ See, e.g., *Thomas & Betts Corp. v. Panduit Corp.*, No. 93 C 4017, 1997 WL 603880 (N.D. Ill. Sept. 23, 1997) (citing *Brown Bag Software v. Symantec Corp.*, 960 F.2d 1465 (9th Cir. 1992) (holding that the proper review of protective orders barring in-house counsel's access to confidential information requires the court to examine factually all of the risks and safeguards surrounding inadvertent disclosure); and *U.S. Steel Corp. v. United States*, 730 F.2d 1465 (Fed. Cir. 1984) (finding that in-house counsel should be denied access to confidential information in certain circumstances)).

³⁴ See *Autotech Tech. Ltd. P'ship v. Automationdirect.com, Inc.*, 237 F.R.D. 405 (N.D. Ill. 2006) (citing *In re PPG Indus., Inc.*, 944 F.2d 912 (Fed. Cir. 1991)) (emphasis added).

implemented a balancing test.³⁵ The factors generally considered in this balancing test include the following:

(1) the nature of the litigation and whether that litigation presents difficult or complex issues or claims; (2) whether alternative discovery measures would assist the in-house attorney seeking access to the confidential information in the development of the litigation; and (3) whether that in-house attorney is involved in the employer-litigant's "competitive decisionmaking."³⁶

The goal is to balance the risk of disclosure of trade secrets to competitors against the risk of impairing the process of litigation by denying access to such information.³⁷ The primary basis for allowing or denying in-house counsel access to a competitor's confidential commercial information is, in part, an evaluation of that individual's involvement in "competitive decisionmaking."³⁸ This inquiry is based on the determination of whether "counsel's activities, association, and relationship with a client that are such as to involve counsel's advice and participation in any or all of the client's decisions (pricing, product design, etc.) made in light of similar or corresponding information about a competitor."³⁹

There can be little doubt that John Dosker is sufficiently involved in competitive decisionmaking at Stand to warrant a prohibition against his access to AEM's confidential trade secret information in this matter. This involvement in Stand's competitive decisionmaking and marketing related activity is clearly evidenced by the pre-filed testimony submitted by John Dosker with the Authority in TRA Docket No. 07-00105.⁴⁰ In this testimony, Dosker discussed, at considerable length, subject matter specifically related to competition/marketing between

³⁵ See, e.g., *Brown Bag Software*, 960 F.2d at 1470; *Amgen, Inc. v. Elanex Pharm., Inc.*, 160 F.R.D. 134 (W.D. Wash. 1994).

³⁶ See *Brown Bag Software*, 960 F.2d at 1470; *Amgen, Inc.*, 160 F.R.D. at 138.

³⁷ See *Brown Bag Software*, 960 F.2d at 1470.

³⁸ See *Montrose Ford, Inc. v. Starn*, 770 N.E.2d 83, 87 (Ohio Ct. App. 2002).

³⁹ See *U.S. Steel Corp.*, 730 F.2d at 1468 n. 3.

⁴⁰ *In re: Petition of Atmos Energy Corporation for Approval of Adjustments to its Rates and Revised Tariff*, TRA Docket No. 07-00105.

Stand and AEM. For instance, Dosker discussed competition between customer classes,⁴¹ the effect of certain alleged actions on Stand customers,⁴² and issues related to AEM's market share and profitability and its taking of sales from equally efficient or more efficient independent suppliers such as Stand.⁴³ Dosker further discussed in detail in his pre-filed testimony Stand's allegations of predatory and anti-competitive behavior in Tennessee by AEM employees.⁴⁴ Dosker's testimony revealed that he is intimately familiar with Stand's marketing activities against AEM. As a representative sample, Dosker testified as follows:

Within the last year, Stand Energy Corporation approached several large industrial users of natural gas in Tennessee to discuss purchasing their gas from [Stand]. These customers were very interested in the pricing that [Stand] was able to quote them.⁴⁵

Further demonstrating his involvement with Stand's competitive decisionmaking and marketing related activity, Dosker adopted the Pre-filed Direct Testimony of Witness William H. Novak in TRA Docket No. 07-00105.⁴⁶ Mr. Novak testified, and Dosker adopted the same, as follows:

The current asset management relationship has given the Company's affiliate a virtual monopoly in certain service areas where the Company has subscribed to 100% of the interstate pipeline capacity. Under our proposal customers could contract for alternate gas supplies through competing gas marketers.⁴⁷

It is clear, therefore, that Dosker has knowledge of and works in areas such that disclosure of AEM's confidential information to him would improve the competitive advantage of Stand to the detriment of AEM.

⁴¹ See *Pre-Filed Testimony of John M. Dosker*, TRA Docket No. 07-00105, p. 3 (Aug. 28, 2007).

⁴² See *id.* at p. 5

⁴³ See *id.*

⁴⁴ See *id.*

⁴⁵ *Pre-Filed Testimony of John M. Dosker*, TRA Docket No. 07-00105, p. 5, lines 18-21.

⁴⁶ *Id.* at 2, lines 9-12 ("Stand Energy would like to incorporate by reference and adopt Mr. Novak's testimony and exhibits[.]")

⁴⁷ *Pre-Filed Direct Testimony of William H. Novak*, TRA Docket No. 07-00105, pp. 9-10 (Aug. 21, 2007) (adopted by Stand Energy Corporation Witness John Dosker).

Any declaration of Dosker that he will act in good faith in handling this information does not alter this analysis. As courts have recognized, “[e]ven if the competitor’s counsel acted in the best of faith and in accordance with the highest ethical standards, the question remains whether access to the moving party’s confidential information would create ‘an unacceptable opportunity for inadvertent disclosure[]’”⁴⁸ or other disclosure.⁴⁹ As courts have found, compartmentalization of the information that would likely be accessed by Dosker would be very difficult, if not impossible.

When taken as a whole, it is obvious that John Dosker is involved in competitive decisionmaking at Stand, or at the very least, has a sufficient nexus with Stand’s competitive and marketing process as to warrant a prohibition of his access to AEM’s confidential trade secret documents. Given this, the risk of disclosure of AEM’s confidential trade secret information is heightened to an unacceptable degree, and the only just outcome, therefore, is for Dosker to be prohibited by the Authority from having access to AEM’s confidential trade secret documents.⁵⁰ Finally, it must be noted that Stand is being represented in this matter by an extremely competent and able outside counsel and is also not prohibited from retaining an outside consultant or expert.⁵¹

C. Exhibit A Contains a Safe Harbor for Any AEM Competitor.

It should be noted that Stand is not in this case to represent the interest of Tennessee ratepayers, as that, with respect to the parties, is the statutory role of the Office of the Attorney

⁴⁸ See *Andrx Pharm., LLC v. GlaxoSmithKline, PLC*, 236 F.R.D. 583, 585-86 (S.D. Fla. 2006).

⁴⁹ See *supra* n. 34.

⁵⁰ For a host of reasons, the same arguments apply equally to Mark Ward, including, but not limited to, the admission by Stand that Ward would normally have submitted the testimony submitted by Dosker in TRA Docket No. 05-00105. See *Pre-Filed Testimony of John M. Dosker*, TRA Docket No. 07-00105, p. 1, lines 24-27.

⁵¹ See *Autotech Tech. Ltd. P’ship*, 237 F.R.D. at 413 (“Requiring a party to rely on its competent outside counsel does not create an undue and unnecessary burden.”) (citing *Intel Corp v. VIA Tech., Inc.*, 198 F.R.D. 525, 529 (N.D. Cal. 2000)).

General of the State of Tennessee.⁵² Notwithstanding the foregoing, paragraph 10 of Exhibit A provides a mechanism for any party to contest the designation of any document or information as confidential information.⁵³ Thus, if outside counsel of an AEM competitor reasonably believes that it is absolutely necessary for an in-house representative of said AEM competitor to review AEM confidential information, said outside counsel may timely file a motion requesting the same with the Authority.

IV. CONCLUSION

It has long been anticipated by AEM that it will be required to produce confidential trade secrets and commercially sensitive information in this docket. The discovery requests served on December 28, 2007, have confirmed the same. Due to the unacceptable risk inherent and inextricably intertwined with the disclosure of AEM confidential information to an AEM competitor, such disclosure should be prohibited by the Authority pursuant to the terms of the proposed Protective Order attached hereto as **EXHIBIT A**.

Respectfully Submitted,

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⁵² See Tenn. Code Ann. § 65-4-118(b)(1) ("The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services.").

⁵³ See **EXHIBIT A**, p. 7, ¶ 10 (attached hereto).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent electronically and by U.S. Mail to the following parties of record this 4th day of January, 2008.

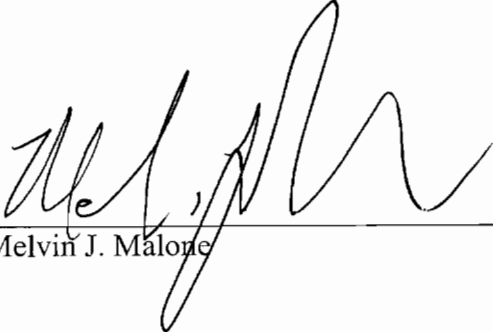
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EXHIBIT A

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

IN RE:)	
)	
DOCKET TO EVALUATE ATMOS ENERGY)	No. 07-00225
CORPORATION'S GAS PURCHASE AND)	
RELATED SHARING INCENTIVES)	

PROTECTIVE ORDER

To expedite the flow of filings, exhibits and other materials, and to facilitate the prompt resolution of disputes as to the confidentiality of material, adequately protect material entitled to be kept confidential and to ensure that protection is afforded only to material so entitled, the Tennessee Regulatory Authority ("TRA") hereby orders that:

 1. For the purpose of this Protective Order ("Order"), proprietary or confidential information, hereinafter referred to as CONFIDENTIAL INFORMATION, shall mean documents, testimony, or information in whatever form which the producing party, in good faith, and based on reasonable inquiry, deems to contain trade secrets, confidential research, development or other sensitive information protected by state or federal law, regulation or rule, and which has been specifically designated by the producing party. A producing party is defined as the party creating the CONFIDENTIAL INFORMATION as well as the party having actual physical possession of information produced pursuant to this Order. All summaries, notes, extracts, compilations or other direct or indirect reproduction from or of any protected materials, shall be entitled to protection under this Order. Documents containing CONFIDENTIAL INFORMATION shall be conspicuously and specifically labeled as "CONFIDENTIAL" on each page containing CONFIDENTIAL

INFORMATION and on the cover page. The documents must be produced in a way that will clearly identify to others that it contains CONFIDENTIAL INFORMATION. Any document so designated shall be handled in accordance with this Order. The provisions of any document containing CONFIDENTIAL INFORMATION may be challenged under paragraph 10 of this Order.

2. Any individual or company subject to this Order, including producing parties or persons reviewing CONFIDENTIAL INFORMATION, shall act in good faith in discharging their obligations hereunder. Parties or non-parties subject to this Order shall include Atmos Energy Corporation (“Atmos”), the Office of the Attorney General (“Attorney General”), Atmos Energy Marketing (“AEM”), Atmos Intervention Group (“AIG”),¹ ~~SouthStar Energy Services, LLC (“SouthStar”)~~ and Stand Energy Corporation (“Stand”). If other parties are permitted to intervene, they will be allowed access to Confidential Information only to the extent and under the conditions permitted by separate order.

3. Subject to the exceptions noted below in this Paragraph 3, CONFIDENTIAL INFORMATION shall be disclosed only to the following persons:

- (a) outside counsel of record for the parties in this case and associates, secretaries, and paralegals actively engaged in assisting outside counsel of record in this docket and any appeals therefrom;
- (b) in-house counsel for the parties;
- (c) officers, directors, or employees of the parties, including employees of the Office of the Tennessee Attorney General; provided, however, that CONFIDENTIAL INFORMATION shall be shown only to those persons having a need to know; and provided further that such officers, directors, and/or employees shall be subject to the provisions of this Protective Order, and shall not disclose such information further except as otherwise permitted

¹ StouthStar Energy Services, LLC has withdrawn its intervention in this case. As a result, Southstar will not be participating in discovery and no confidential information produced in this case shall be disclosed to Southstar or its counsel.

under the terms of this Protective Order;

- (d) TRA Directors and members of the staff of the TRA;
- (e) outside consultants and expert witnesses employed or retained by the parties or their counsel, who have access to CONFIDENTIAL INFORMATION solely for evaluation, testing, testimony, preparation for trial or other services related to this docket, provided that to the extent that any party seeks to disclose CONFIDENTIAL INFORMATION to any outside consultant or expert witness who is expected to testify on that party's behalf, the party shall give five (5) days written notice to the producing party of intention to disclose CONFIDENTIAL INFORMATION. During such notice period, the producing party may move to prevent or limit disclosure for cause, in which case no disclosure shall be made until the TRA, the Hearing Officer, the Administrative Law Judge or court rules on the motion. Any such motion shall be filed within three (3) days after service of the notice. Any response shall be filed within three (3) days after service of the notice. Pre hearing conferences may be called to confer with the parties on the Motions to Limit Disclosure. All service shall be by hand delivery or by facsimile.

The provisions of subparagraphs (b) and (c) above notwithstanding, CONFIDENTIAL INFORMATION shall not be provided to any of the members of AIG or any of their employees unless and until there has been compliance with the provisions of subparagraph (e) above and the provisions of paragraph 4 below applicable to consultants and expert witnesses, all of which shall be accomplished as to each individual person to whom it is proposed that CONFIDENTIAL INFORMATION be disclosed. Notwithstanding anything else to the contrary, under no circumstances shall

- (f) any CONFIDENTIAL INFORMATION be disclosed to or discussed with anyone associated with the marketing of services in competition with the products, goods or services of the producing party; ~~or~~
- (g) any CONFIDENTIAL INFORMATION related to Atmos Energy Marketing (which shall be marked "CONFIDENTIAL - AEM MATERIAL") be disclosed to or discussed with Tennessee Energy Consultants, Earl Burton, or Stand, ~~or SouthStar~~, or any employee of any of them, including in-house

counsel, with the exception of in-house counsel;² or

(h) any CONFIDENTIAL INFORMATION related to Stand Energy Corporation (which shall be marked "CONFIDENTIAL - STAND MATERIAL") be disclosed to or discussed with Tennessee Energy Consultants, Earl Burton, or Atmos Energy Marketing, LLC, or any employee of any of them, including in-house counsel.

4. Prior to disclosure of CONFIDENTIAL INFORMATION to any of the authorized persons, the counsel representing the party who is to receive the CONFIDENTIAL INFORMATION shall provide a copy of this Order to the recipient Director, staff member, employee or, officer, who shall be bound by the terms of this Order. Prior to disclosure of CONFIDENTIAL INFORMATION to any outside consultant or expert witness employed or retained by a party, counsel shall provide a copy of this Order to such outside consultant or expert witness, who shall sign an Affidavit in the form of that attached to this Order attesting that he or she has read a copy of this Order, that he or she understands and agrees to be bound by the terms of this Order, and that he or she understands that unauthorized disclosure of the documents labeled "CONFIDENTIAL" constitutes a violation of this Order. This Affidavit shall be signed in the presence of and be notarized by a notary public.

2

²If issues related to the current asset management contract between Atmos Energy Marketing and Atmos Energy Corporation arise in this docket, the parties may disagree as to whether the contract is a confidential document and, if so, as to whether the contract may be disclosed, subject to appropriate protections, to competitors of AEM, such as Mr. Burton and Stand Energy, who are parties to this docket or consulting with the parties. If the parties cannot resolve these disagreements, any party may move the Hearing Officer to declare that the contract is not a confidential document or that it may be disclosed to competitors of AEM. In any such proceeding, the party asserting that the contract is confidential and that it should not be disclosed to competitors of AEM will bear the burden of proof as to both issues.

Counsel of record for each party shall provide the producing party a copy of each such Affidavit for retained experts expected to be called as a witness at the hearing of this matter and shall keep the Affidavits executed by all experts or consultants retained by that party, whether or not expected to be called as a witness, on file in their respective offices.

5. If any party or non-party subject to this Order inadvertently fails to label documents as “CONFIDENTIAL” in accordance with the provisions of this Order when producing such documents, such failure shall not constitute a waiver of confidentiality, provided the party or non-party who has produced the document shall notify the recipient of the document in writing within five (5) days of discovery of such inadvertent failure to label the document as “CONFIDENTIAL.” At that time, the recipients will immediately treat the subject document as CONFIDENTIAL INFORMATION. In no event shall the TRA, or any other party to this Order, be liable for any claims or damages resulting from the disclosure of a document while not so labeled as “CONFIDENTIAL.” An inadvertent failure to label a document as “CONFIDENTIAL” shall not, in any way, affect the TRA's determination as to whether the document is entitled to CONFIDENTIAL INFORMATION status.

6. Any papers filed in this proceeding that contain, quote, paraphrase, compile or otherwise disclose documents covered by the terms of this Order, or any information contained therein, shall be filed with the TRA in sealed envelopes labeled “CONFIDENTIAL.” The filing party shall also include with the filing a public version of the papers with any CONFIDENTIAL INFORMATION redacted. Only the redacted public version may be placed in the TRA’s public file and/or posted on the TRA website. Each sealed envelope shall be labeled to reflect the style and

docket number of this proceeding and to identify the subject matter of the content of the sealed envelope. The envelopes shall be maintained in a locked filing cabinet. The envelopes shall not be opened or their contents reviewed by anyone except upon order by the TRA, Hearing Officer, or Administrative Law Judge after due notice to counsel of record. Notwithstanding the foregoing, the Directors and the staff of the TRA may review any paper filed as CONFIDENTIAL INFORMATION and labeled "CONFIDENTIAL" without obtaining an order of the TRA, Hearing Officer, or Administrative Law Judge, provided the Directors and staff maintain the confidentiality of the paper in accordance with the terms of this Order.

7. Documents, information and testimony designated as CONFIDENTIAL INFORMATION and labeled "CONFIDENTIAL," in accordance with this Order, may be disclosed in testimony at the Hearing on the merits of this proceeding and offered into evidence in any hearing related to this action, subject to the applicable Rules of Evidence and to such future orders as the TRA, Hearing Officer, or Administrative Law Judge may enter. Any party intending to use documents, information, or testimony designated as CONFIDENTIAL INFORMATION shall inform the producing party and the TRA, Hearing Officer, or Administrative Law Judge, prior to the Hearing on the merits of the case, of the proposed use, and shall advise the TRA, the Hearing Officer, or Administrative Law Judge, and the producing party before use of such information during witness examinations so that appropriate measures can be taken by the TRA, Hearing Officer, or Administrative Law Judge to protect the confidential nature of the information.

8. Except for documents filed with the TRA, all documents covered by the terms of this Order that are disclosed to the requesting party shall be maintained separately in files labeled "CONFIDENTIAL" and labeled with reference to this Order at the offices of the requesting party's

counsel of record.

9. Nothing herein shall be construed as preventing any party from continuing to use and disclose any information (a) that is in the public domain, or (b) that subsequently becomes part of the public domain through no act of such party, or violation of this Order, or (c) that is disclosed to it by a third party, where said disclosure does not itself violate any contractual or legal obligation or terms of this Order, or (d) that is independently developed by a party, or (e) that is known or used by it prior to this proceeding. The burden of establishing the existence of (a) through (e) shall be upon the party attempting to use or disclose such information.

10. Any party may contest the designation of any document or information as CONFIDENTIAL INFORMATION by filing a motion with the TRA, Hearing Officer, Administrative Law Judge or the courts, as appropriate, for a ruling that the documents, information, or testimony should not be so treated. Upon the filing of such a motion, the designating party shall bear the burden of supporting its designation of the documents or information at issue as CONFIDENTIAL INFORMATION. All documents, information and testimony designated as CONFIDENTIAL INFORMATION, however, shall be maintained as such until the TRA, Hearing Officer, Administrative Law Judge, or a court orders otherwise. A motion to contest must be filed not later than five (5) days after receipt of the material designated CONFIDENTIAL INFORMATION or ten (10) days prior to the Hearing on the merits, whichever date occurs later in time. Any reply seeking to protect the status of their CONFIDENTIAL INFORMATION must be received not later than five (5) days prior to the Hearing on the merits. Motions made and subsequent replies received within the five (5) days prior to the Hearing on the merits shall be presented to the TRA at the Hearing on the merits for a ruling.

121. Non-party witnesses shall be entitled to invoke the provisions of this Order by designating information disclosed or documents produced for use in this action as CONFIDENTIAL INFORMATION pursuant to the terms of this Order.

132. No person authorized under the terms herein to receive access to documents, information, or testimony designated as CONFIDENTIAL INFORMATION shall be granted access until such person has complied with the requirements set forth in paragraph 4 of this Order.

143. Any person to whom disclosure or inspection is made in violation of this Order shall be bound by the terms of this Order.

154. Upon an order becoming final in this proceeding and conclusion of any appeals resulting from such an order, all the filings, exhibits and other materials designated as CONFIDENTIAL INFORMATION and all copies thereof shall be returned to counsel of the party who produced the filings, exhibits and other materials within fifteen (15) days of a written request from the producing party, or counsel in possession of such documents shall certify to counsel of the producing party that all the filings, exhibits and other materials designated as CONFIDENTIAL INFORMATION and all copies thereof have been destroyed. Subject to the requirements of Paragraph 7 above, the TRA shall retain copies of information designated as Confidential or Protected Security Materials as may be necessary to maintain the record of this cause intact.

165. After termination of this proceeding, the provisions of this Order relating to the secrecy and confidential nature of confidential documents, information and testimony shall continue to be binding, upon parties hereto and their officers, employers, employees, agents, and/or others for five (5) years unless this Order is vacated or modified.

176. Nothing herein shall prevent a party from seeking further protection for particular

documents or prevent entry of a subsequent order, upon an appropriate showing, requiring that any documents, information or testimony designated as CONFIDENTIAL INFORMATION, CONFIDENTIAL - AEM MATERIAL, or PROTECTED SECURITY MATERIALS shall receive protection other than that provided herein.

187. In addition to the other provisions of this Order, Atmos Energy Corporation, and its affiliates (the “Company”) may designate and label as “PROTECTED SECURITY MATERIALS” documents and information related to security measures undertaken to protect public health and safety. The Company shall provide access to PROTECTED SECURITY MATERIALS to TRA Directors and members of the staff of the TRA and further only to authorized representatives of the Intervenors in this docket. Authorized representatives shall be limited to the following: one counsel of record and one other staff member or person under contract to the staff, each authorized in writing by a senior official of the TRA to have such access; and with respect to any other party, two counsel of record, the Tennessee Attorney General and the Chief Deputy of the Office of the Tennessee Attorney General and a single other person, employed by or under contract to the party, authorized by that party in a written certification mutually agreeable to the parties.

198. The Company shall provide access by an authorized representative to PROTECTED SECURITY MATERIALS only after such authorized representative has executed an Affidavit in the form of that attached to this Order and provided a copy to the Company. Except with consent of the Company: (i) access shall be at the offices of the Company or its counsel of record and under supervision of the Company; (ii) PROTECTED SECURITY MATERIALS shall not be removed from the offices of the Company or its counsel; and (iii) no copies shall be provided to an authorized representative except as provided herein. Authorized representatives may make notes or memoranda

from a review of the PROTECTED SECURITY MATERIALS and may remove such notes and memoranda. In all other respects such notes and memoranda shall remain PROTECTED SECURITY MATERIALS and subject to the provisions hereof. PROTECTED SECURITY MATERIALS shall be used only to assist TRA staff or any other party to prepare for and to try this proceeding and shall not be used for any other purpose in this or any other jurisdiction.

2019. Except as provided in this Order, the contents of PROTECTED SECURITY MATERIALS to which the TRA staff or other party is given access, and any notes, memoranda, or any form of information or opinions regarding or derived from the PROTECTED SECURITY MATERIALS shall not be disclosed to anyone other than an authorized representative in accordance with this Order, except that an authorized representative may disclose his or her conclusions or findings solely within, and for the purposes of, this proceeding and in accordance with this Order. PROTECTED SECURITY MATERIALS shall not otherwise be published, disclosed or divulged except as expressly provided herein. The TRA staff and any other party shall treat all notes and memoranda or opinions regarding or derived from the PROTECTED SECURITY MATERIALS as highly confidential and shall keep them in a secure location with access limited to an authorized representative and the contents of PROTECTED SECURITY MATERIALS and any information derived from them shall be considered highly confidential, and shall not be deemed public records. The TRA staff, any party, Hearing Officer, or the TRA Directors may discuss any position or conclusion regarding security expenditures and testimony in briefs, orders, pleadings, or hearings in this proceeding in accordance with this Order.

240. Upon written request from the Company within one (1) month from the conclusion of this proceeding or any judicial review proceedings involving security related expenditures, the TRA

staff and any party will either return any PROTECTED SECURITY MATERIALS, any notes or memoranda related thereto and any copies thereof to the Company or certify to the Company in writing that all such notes, memoranda and copies have been destroyed. Any electronic copies of PROTECTED SECURITY MATERIALS made by authorized representatives shall be eliminated.

221. The Attorney General and his staff have authority to enter into non-disclosure agreements pursuant to Tenn. Code Ann. § 65-4-118 which are consistent with state and federal law, regulations and rules.

232. The Attorney General and his staff agree to keep CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS in a secure place and will not permit them to be seen by any person who is not an employee of the State of Tennessee, the Office of the Attorney General and Reporter, or a person who has signed a Non-disclosure Agreement.

234. The Attorney General and his staff may make copies of CONFIDENTIAL INFORMATION and any portion thereof. To the extent permitted by state and federal law, regulations and rules, all notes utilizing supporting information shall be subject to the terms of this Order to the extent factual assertions are derived from the supporting information.

254. To the extent permitted by state law, the Attorney General will provide timely notice of filing or disclosure in the discharge of the duties of the Office of the Attorney General and Reporter, pursuant to Tenn. Code Ann. § 10-7-504(a)(5)(C) or any other law, regulation or rule, so that the Company may take action relating to disclosure.

265. The obligations of the Attorney General and his staff under this Order are further subject to the state's Public Records Act and other open records statutes. Nothing in this Order is intended to violate or alter the state's Public Records Act or Freedom of Information Act ("FOIA").

In the event that the Attorney General or member of his staff is served with a subpoena, public records request, FOIA request, or other request that calls for the production of confidential commercial information labeled as “CONFIDENTIAL INFORMATION” or “PROTECTED SECURITY MATERIALS” by the Company, the Attorney General will notify the Company by notifying the undersigned of the existence of the subpoena, public records request, FOIA request, or other request, at least five (5) business days before responding to the request to the extent permitted by state law and orders of a court, as long as the Attorney General or his staff is able to respond to the request within a reasonable time. The Attorney General or his staff may elect to wait to produce such information as allowed by state law in order to provide the Company an opportunity to challenge said subpoena or request or to make arrangements to preserve the confidentiality of the confidential commercial information labeled as “CONFIDENTIAL INFORMATION” or “PROTECTED SECURITY MATERIALS” by the Company that is subject to such request.

276. The designation of any information, documents or things in accordance with this Order as constituting “CONFIDENTIAL INFORMATION” or “PROTECTED SECURITY MATERIALS” and the Attorney General’s or his staff’s treatment of such material as confidential or proprietary in compliance with this Order is not an admission or agreement by the Attorney General or his staff that the material constitutes or contains confidential commercial information or trade secret information and shall not be deemed to be either a waiver of the state’s right to challenge such designation or an acceptance of such designation. The Company agrees to designate information, documents or things provided to the Attorney General as CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS if it has a good faith basis for the claim. The Company will upon request of the Attorney General or his staff provide a written explanation of the details,

including statutory authority that support its CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS claim within five (5) days of a written request. The Company also specifically agrees that it will not designate any documents as CONFIDENTIAL INFORMATION or label such documents as “CONFIDENTIAL” if the documents:

- (a) have been distributed to the public, consumers or others; or
- (b) are not maintained by the Company as CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS.

287. Nothing in this Order shall prevent the Attorney General from using the CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS received for investigative purposes in the discharge of the duties of the Office of the Attorney General and Reporter. Additionally, nothing in this Order shall prevent the Attorney General from informing state officials and third parties of the fact of an investigation, as needed, to conduct the investigation. Without limiting the scope of this paragraph, nothing in this Order shall prevent the Attorney General from contacting consumers whose names were provided by the Company or from discussing with any consumer any materials that he or she allegedly received from the Company or confirming that a consumer actually received the materials.

298. All information, documents and things designated as CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS and produced in accordance with this Order may be disclosed in testimony or offered into evidence at any TRA or court hearing, trial, motion or proceeding of this matter, subject to the provisions of this Order, including Paragraph 7, and the applicable Rules of Evidence and any order the TRA may enter to protect the confidentiality of information offered at any hearing or other proceeding. The party who produced the information,

documents and things designated as CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS agrees to stipulate to the authentication of such information, documents and things in any such proceeding. If any Party identifies information in the CONFIDENTIAL INFORMATION the indicates that illegal conduct (civil or criminal) has occurred or may occur, nothing in this Order shall prevent such party from reporting such alleged conduct to the appropriate law enforcement or regulatory agency.

~~30~~29. Nothing in this Agreement is intended to restrict or alter federal or state laws, regulations or rules.

~~31~~0. Any person who has signed a non-disclosure certificate or is otherwise bound by the terms of this Order shall continue to be bound by this Order and/or certificate even if no longer engaged by the TRA or Intervenors.

~~32~~1. Any party aggrieved with the TRA's decision in this matter may file a Petition for Reconsideration with the TRA within fifteen (15) days from and after the date of this Order.

~~33~~2. Any party aggrieved with the TRA's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.

HEARING OFFICER

AGREED TO AND APPROVED FOR ENTRY:

NEAL & HARWELL, PLC

By: _____
William T. Ramsey, #9245
A. Scott Ross, #15634
2000 One Nashville Place
150 Fourth Avenue, North
Nashville, TN 37219-2498
(615) 244-1713 – Telephone
(615) 726-0573 – Facsimile
Counsel for Atmos Energy Corporation

OFFICE OF THE ATTORNEY GENERAL

By: _____
Vance Broemel, #11421
Joe Shirley, #22287
Consumer Advocate and Protection Division
P. O. Box 20207
Nashville, TN 37202
(615) 741-3549 – Telephone

BOULT, CUMMINGS, CONNERS & BERRY, PLC

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Nashville, TN 37203
(615) 252-2363 – Telephone
(615) 252-2380 – Facsimile
Counsel for Atmos Intervention Group

BASS, BERRY & SIMS, PLC

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(615) 742-6244 – Telephone
(615) 742-6293 – Facsimile
*Counsel for SouthStar Energy Services LLC, d/b/a
Georgia Natural Gas*

WALLER, LANSDEN, DORTCH & DAVIS, LLP

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Counsel for Stand Energy Corporation

MILLER & MARTIN

By: _____
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1200 One Nashville Place
150 Fourth Avenue, North
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(615) 256-8197 – Facsimile
Counsel for Atmos Energy Marketing, LLC

FARMER & LUNA

By: _____

____ J. W. Luna, #5780

333 Union Street, Ste. 300

Nashville, TN 37201

(615) 254-9146 Telephone

(615) 254-7123 Facsimile

Counsel for Chattanooga Gas

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 ____ day of

() Hand Vance Broemel, Esq.
() Mail Joe Shirley, Esq.
() Fax Office of the Attorney General
() Fed. Ex. Consumer Advocate and Protection Division
() E-Mail P. O. Box 20207
Nashville, TN 37202

() Hand Henry M. Walker, Esq.
() Mail Boulton, Cummings, Connors, & Berry, PLC
() Fax 1600 Division Street, Suite 700
() Fed. Ex. P. O. Box 340025
() E-Mail Nashville, TN 37203

() Hand R. Dale Grimes, Esq.
() Mail David R. Esquivel, Esq.
() Fax Bass, Berry & Sims, PLC
() Fed. Ex. 315 Deaderick Street, Suite 2700
() E-Mail Nashville, TN 37238-3001

() Hand D. Billye Sanders, Esq.
() Mail Waller, Lansden, Dortch & Davis, LLP
() Fax 511 Union Street, Suite 2700
() Fed. Ex. Nashville, TN 37219-8966
() E-Mail

() Hand John M. Dosker, Esq.
() Mail General Counsel
() Fax Stand Energy Corporation
() Fed. Ex. 1077 Celestial Street
() E-Mail Rockwood Building, Suite 110
Cincinnati, OH 45202-1629

() Hand Melvin Malone, Esq.
() Mail Mark W. Smith, Esq.
() Fax 1200 One Nashville Place
() Fed. Ex. 150 Fourth Avenue, North
() E-Mail Nashville, TN 37219

() Hand Mark H. Johnson, President
() Mail Atmos Energy Marketing, LLC
() Fax 11251 Northwest Freeway, Suite 400
() Fed. Ex. Houston, TX 77092
() E-Mail

Vance Broemel

111487

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

IN RE:)
)
DOCKET TO EVALUATE ATMOS ENERGY) No. 07-00225
CORPORATION'S GAS PURCHASE AND)
RELATED SHARING INCENTIVES)

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

~~In re: Petition of Atmos Energy Corporation)~~
~~for Approval of Tariff Establishing Environmental) Docket No. 07-00081~~
~~Cost Recovery Rider)~~

AGREEMENT TO COMPLY WITH PROTECTIVE ORDER

I have reviewed the Protective Order entered in the above captioned matter and agree to abide and be bound by its terms. I understand that unauthorized disclosure of documents labeled "CONFIDENTIAL" or "PROTECTED SECURITY MATERIALS" will be a violation of the Order.

DATE

NAME

STATE OF _____)

COUNTY OF _____)

Personally appeared before me, _____, a Notary Public,
_____ with whom I am personally acquainted, who acknowledged
that he executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this _____ day of _____, _____.

NOTARY PUBLIC

My Commission Expires: _____

~~108311~~

~~6583014.1~~

EXHIBIT B

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

IN RE:)	
)	
DOCKET TO EVALUATE ATMOS ENERGY)	No. 07-00225
CORPORATION'S GAS PURCHASE AND)	
RELATED SHARING INCENTIVES)	

PROTECTIVE ORDER

To expedite the flow of filings, exhibits and other materials, and to facilitate the prompt resolution of disputes as to the confidentiality of material, adequately protect material entitled to be kept confidential and to ensure that protection is afforded only to material so entitled, the Tennessee Regulatory Authority ("TRA") hereby orders that:

 1. For the purpose of this Protective Order ("Order"), proprietary or confidential information, hereinafter referred to as CONFIDENTIAL INFORMATION, shall mean documents, testimony, or information in whatever form which the producing party, in good faith, and based on reasonable inquiry, deems to contain trade secrets, confidential research, development or other sensitive information protected by state or federal law, regulation or rule, and which has been specifically designated by the producing party. A producing party is defined as the party creating the CONFIDENTIAL INFORMATION as well as the party having actual physical possession of information produced pursuant to this Order. All summaries, notes, extracts, compilations or other direct or indirect reproduction from or of any protected materials, shall be entitled to protection under this Order. Documents containing CONFIDENTIAL INFORMATION shall be conspicuously and specifically labeled as "CONFIDENTIAL" on each page containing CONFIDENTIAL

INFORMATION and on the cover page. The documents must be produced in a way that will clearly identify to others that it contains CONFIDENTIAL INFORMATION. Any document so designated shall be handled in accordance with this Order. The provisions of any document containing CONFIDENTIAL INFORMATION may be challenged under paragraph 10 of this Order.

2. Any individual or company subject to this Order, including producing parties or persons reviewing CONFIDENTIAL INFORMATION, shall act in good faith in discharging their obligations hereunder. Parties or non-parties subject to this Order shall include Atmos Energy Corporation (“Atmos”), the Office of the Attorney General (“Attorney General”), Atmos Energy Marketing (“AEM”), Atmos Intervention Group (“AIG”),¹ ~~SouthStar Energy Services, LLC (“SouthStar”)~~ and Stand Energy Corporation (“Stand”). If other parties are permitted to intervene, they will be allowed access to Confidential Information only to the extent and under the conditions permitted by separate order.

3. Subject to the exceptions noted below in this Paragraph 3, CONFIDENTIAL INFORMATION shall be disclosed only to the following persons:

- (a) outside counsel of record for the parties in this case and associates, secretaries, and paralegals actively engaged in assisting outside counsel of record in this docket and any appeals therefrom;
- (b) in-house counsel for the parties;
- (c) officers, directors, or employees of the parties, including employees of the Office of the Tennessee Attorney General, but limited to John Dosker General Counsel and Mark Ward, Vice President of Stand Energy, Earl Burton of Tennessee Energy Consultants (except for CONFIDENTIAL INFORMATION provided by AEM and Stand), [list names and titles of other specific limited persons (including in-house counsel) of AEM and Atmos

¹ SouthStar Energy Services, LLC has withdrawn its intervention in this case. As a result, Southstar will not be participating in discovery and no confidential information produced in this case shall be disclosed to Southstar or its counsel.

who are authorized to see the CONFIDENTIAL INFORMATION on behalf of such party.]; provided, however, that CONFIDENTIAL INFORMATION shall be shown only to those persons having a need to know; and provided further that such officers, directors, and/or employees shall be subject to the provisions of this Protective Order, and shall not disclose such information further except as otherwise permitted under the terms of this Protective Order;

- (d) TRA Directors and members of the staff of the TRA;
- (e) outside consultants and expert witnesses employed or retained by the parties or their counsel, who have access to CONFIDENTIAL INFORMATION solely for evaluation, testing, testimony, preparation for trial or other services related to this docket, including Hal Novak, provided that to the extent that any party seeks to disclose CONFIDENTIAL INFORMATION to any outside consultant or expert witness who is expected to testify on that party's behalf other than those listed above, the party shall give five (5) days written notice to the producing party of intention to disclose CONFIDENTIAL INFORMATION. During such notice period, the producing party may move to prevent or limit disclosure for cause, in which case no disclosure shall be made until the TRA, the Hearing Officer, the Administrative Law Judge or court rules on the motion. Any such motion shall be filed within three (3) days after service of the notice. Any response shall be filed within three (3) days after service of the notice. Pre-hearing conferences may be called to confer with the parties on the Motions to Limit Disclosure. All service shall be by hand delivery, e-mail or by facsimile.

The provisions of subparagraphs (b) and (c) above notwithstanding, CONFIDENTIAL INFORMATION shall not be provided to any of the members of AIG or any of their employees unless and until there has been compliance with the provisions of subparagraph (e) above and the provisions of paragraph 4 below applicable to consultants and expert witnesses, all of which shall be accomplished as to each individual person to whom it is proposed that CONFIDENTIAL INFORMATION be disclosed. If CONFIDENTIAL INFORMATION requested contains names of individual customers of AEM, Stand or Tennessee Energy Marketing, such customers' names and locations of their facilities will not be disclosed to any party and a number shall be assigned to each

such customer. The number assigned to each customer shall be kept consistent between all documents relating to such customer. Notwithstanding anything else to the contrary, under no circumstances shall

- (f) any CONFIDENTIAL INFORMATION be disclosed to or discussed with anyone directly associated with the marketing of services in competition with the products, goods or services of the producing party; or
- (g) any CONFIDENTIAL INFORMATION related to Atmos Energy Marketing (which shall be marked "CONFIDENTIAL - AEM MATERIAL") be disclosed to or discussed with Atmos or any CONFIDENTIAL INFORMATION related to Atmos be disclosed or discussed with AEM, Tennessee Energy Consultants, Earl Burton, or Stand, or SouthStar, or any employee of any of them, including in-house counsel, with the exception of in-house counsel.²

4. Prior to disclosure of CONFIDENTIAL INFORMATION to any of the authorized persons, the counsel representing the party who is to receive the CONFIDENTIAL INFORMATION shall provide a copy of this Order to the recipient Director, staff member, employee or, officer, who shall be bound by the terms of this Order. Prior to disclosure of CONFIDENTIAL INFORMATION

2

²~~If issues related to the current asset management contract between Atmos Energy Marketing and Atmos Energy Corporation arise in this docket, the parties may disagree as to whether the contract is a confidential document and, if so, as to whether the contract may be disclosed, subject to appropriate protections, to competitors of AEM, such as Mr. Burton and Stand Energy, who are parties to this docket or consulting with the parties. If the parties cannot resolve these disagreements, any party may move the Hearing Officer to declare that the contract is not a confidential document or that it may be disclosed to competitors of AEM. In any such proceeding, the party asserting that the contract is confidential and that it should not be disclosed to competitors of AEM will bear the burden of proof as to both issues.~~

to any outside consultant or expert witness employed or retained by a party, counsel shall provide a copy of this Order to such outside consultant or expert witness, who shall sign an Affidavit in the form of that attached to this Order attesting that he or she has read a copy of this Order, that he or she understands and agrees to be bound by the terms of this Order, and that he or she understands that unauthorized disclosure of the documents labeled "CONFIDENTIAL" constitutes a violation of this Order. This Affidavit shall be signed in the presence of and be notarized by a notary public. Counsel of record for each party shall provide the producing party a copy of each such Affidavit for retained experts expected to be called as a witness at the hearing of this matter and shall keep the Affidavits executed by all experts or consultants retained by that party, whether or not expected to be ecalled as a witness, on file in their respective offices.

5. If any party or non-party subject to this Order inadvertently fails to label documents as "CONFIDENTIAL" in accordance with the provisions of this Order when producing such documents, such failure shall not constitute a waiver of confidentiality, provided the party or non-party who has produced the document shall notify the recipient of the document in writing within five (5) days of discovery of such inadvertent failure to label the document as "CONFIDENTIAL." At that time, the recipients will immediately treat the subject document as CONFIDENTIAL INFORMATION. In no event shall the TRA, or any other party to this Order, be liable for any claims or damages resulting from the disclosure of a document while not so labeled as "CONFIDENTIAL." An inadvertent failure to label a document as "CONFIDENTIAL" shall not, in any way, affect the TRA's determination as to whether the document is entitled to CONFIDENTIAL INFORMATION status.

6. Any papers filed in this proceeding that contain, quote, paraphrase, compile or otherwise disclose documents covered by the terms of this Order, or any information contained therein, shall be filed with the TRA in sealed envelopes labeled "CONFIDENTIAL." The filing party shall also include with the filing a public version of the papers with any CONFIDENTIAL INFORMATION redacted. Only the redacted public version may be placed in the TRA's public file and/or posted on the TRA website. Each sealed envelope shall be labeled to reflect the style and docket number of this proceeding and to identify the subject matter of the content of the sealed envelope. The envelopes shall be maintained in a locked filing cabinet. The envelopes shall not be opened or their contents reviewed by anyone except upon order by the TRA, Hearing Officer, or Administrative Law Judge after due notice to counsel of record. Notwithstanding the foregoing, the Directors and the staff of the TRA may review any paper filed as CONFIDENTIAL INFORMATION and labeled "CONFIDENTIAL" without obtaining an order of the TRA, Hearing Officer, or Administrative Law Judge, provided the Directors and staff maintain the confidentiality of the paper in accordance with the terms of this Order.

7. Documents, information and testimony designated as CONFIDENTIAL INFORMATION and labeled "CONFIDENTIAL," in accordance with this Order, may be disclosed in testimony at the Hearing on the merits of this proceeding and offered into evidence in any hearing related to this action, subject to the applicable Rules of Evidence and to such future orders as the TRA, Hearing Officer, or Administrative Law Judge may enter. Any party intending to use documents, information, or testimony designated as CONFIDENTIAL INFORMATION shall inform the producing party and the TRA, Hearing Officer, or Administrative Law Judge, prior to the Hearing on the merits of the case, of the proposed use, and shall advise the TRA, the Hearing

Officer, or Administrative Law Judge, and the producing party before use of such information during witness examinations so that appropriate measures can be taken by the TRA, Hearing Officer, or Administrative Law Judge to protect the confidential nature of the information.

8. Except for documents filed with the TRA, all documents covered by the terms of this Order that are disclosed to the requesting party shall be maintained separately in files labeled “CONFIDENTIAL” and labeled with reference to this Order at the offices of the requesting party's counsel of record.

9. Nothing herein shall be construed as preventing any party from continuing to use and disclose any information (a) that is in the public domain, or (b) that subsequently becomes part of the public domain through no act of such party, or violation of this Order, or (c) that is disclosed to it by a third party, where said disclosure does not itself violate any contractual or legal obligation or terms of this Order, or (d) that is independently developed by a party, or (e) that is known or used by it prior to this proceeding. The burden of establishing the existence of (a) through (e) shall be upon the party attempting to use or disclose such information.

10. Any party may contest the designation of any document or information as CONFIDENTIAL INFORMATION by filing a motion with the TRA, Hearing Officer, Administrative Law Judge or the courts, as appropriate, for a ruling that the documents, information, or testimony should not be so treated. All documents, information and testimony designated as CONFIDENTIAL INFORMATION, however, shall be maintained as such until the TRA, Hearing Officer, Administrative Law Judge, or a court orders otherwise. A motion to contest must be filed not later than five (5) days after receipt of the material designated CONFIDENTIAL INFORMATION or ten (10) days prior to the Hearing on the merits, whichever date occurs later in

time. Any reply seeking to protect the status of their CONFIDENTIAL INFORMATION must be received not later than five (5) days prior to the Hearing on the merits. Motions made and subsequent replies received within the five (5) days prior to the Hearing on the merits shall be presented to the TRA at the Hearing on the merits for a ruling.

121. Non-party witnesses shall be entitled to invoke the provisions of this Order by designating information disclosed or documents produced for use in this action as CONFIDENTIAL INFORMATION pursuant to the terms of this Order.

132. No person authorized under the terms herein to receive access to documents, information, or testimony designated as CONFIDENTIAL INFORMATION shall be granted access until such person has complied with the requirements set forth in paragraph 4 of this Order.

143. Any person to whom disclosure or inspection is made in violation of this Order shall be bound by the terms of this Order.

154. Upon an order becoming final in this proceeding and conclusion of any appeals resulting from such an order, all the filings, exhibits and other materials designated as CONFIDENTIAL INFORMATION and all copies thereof shall be returned to counsel of the party who produced the filings, exhibits and other materials within fifteen (15) days of a written request from the producing party, or counsel in possession of such documents shall certify to counsel of the producing party that all the filings, exhibits and other materials designated as CONFIDENTIAL INFORMATION and all copies thereof have been destroyed. Subject to the requirements of Paragraph 7 above, the TRA shall retain copies of information designated as Confidential or Protected Security Materials as may be necessary to maintain the record of this cause intact.

165. After termination of this proceeding, the provisions of this Order relating to the

secrecy and confidential nature of confidential documents, information and testimony shall continue to be binding, upon parties hereto and their officers, employers, employees, agents, and/or others for five (5) years unless this Order is vacated or modified.

176. Nothing herein shall prevent a party from seeking further protection for particular documents or prevent entry of a subsequent order, upon an appropriate showing, requiring that any documents, information or testimony designated as CONFIDENTIAL INFORMATION, CONFIDENTIAL - AEM MATERIAL, or PROTECTED SECURITY MATERIALS shall receive protection other than that provided herein.

187. In addition to the other provisions of this Order, Atmos Energy Corporation, and its affiliates (the “Company”) may designate and label as “PROTECTED SECURITY MATERIALS” documents and information related to security measures undertaken to protect public health and safety. The Company shall provide access to PROTECTED SECURITY MATERIALS to TRA Directors and members of the staff of the TRA and further only to authorized representatives of the Intervenors in this docket. Authorized representatives shall be limited to the following: one counsel of record and one other staff member or person under contract to the staff, each authorized in writing by a senior official of the TRA to have such access; and with respect to any other party, two counsel of record, the Tennessee Attorney General and the Chief Deputy of the Office of the Tennessee Attorney General and a single other person, employed by or under contract to the party, authorized by that party in a written certification mutually agreeable to the parties.

198. The Company shall provide access by an authorized representative to PROTECTED SECURITY MATERIALS only after such authorized representative has executed an Affidavit in the form of that attached to this Order and provided a copy to the Company. Except with consent of the

Company: (i) access shall be at the offices of the Company or its counsel of record and under supervision of the Company; (ii) PROTECTED SECURITY MATERIALS shall not be removed from the offices of the Company or its counsel; and (iii) no copies shall be provided to an authorized representative except as provided herein. Authorized representatives may make notes or memoranda from a review of the PROTECTED SECURITY MATERIALS and may remove such notes and memoranda. In all other respects such notes and memoranda shall remain PROTECTED SECURITY MATERIALS and subject to the provisions hereof. PROTECTED SECURITY MATERIALS shall be used only to assist TRA staff or any other party to prepare for and to try this proceeding and shall not be used for any other purpose in this or any other jurisdiction.

2019. Except as provided in this Order, the contents of PROTECTED SECURITY MATERIALS to which the TRA staff or other party is given access, and any notes, memoranda, or any form of information or opinions regarding or derived from the PROTECTED SECURITY MATERIALS shall not be disclosed to anyone other than an authorized representative in accordance with this Order, except that an authorized representative may disclose his or her conclusions or findings solely within, and for the purposes of, this proceeding and in accordance with this Order. PROTECTED SECURITY MATERIALS shall not otherwise be published, disclosed or divulged except as expressly provided herein. The TRA staff and any other party shall treat all notes and memoranda or opinions regarding or derived from the PROTECTED SECURITY MATERIALS as highly confidential and shall keep them in a secure location with access limited to an authorized representative and the contents of PROTECTED SECURITY MATERIALS and any information derived from them shall be considered highly confidential, and shall not be deemed public records. The TRA staff, any party, Hearing Officer, or the TRA Directors may discuss any position or

conclusion regarding security expenditures and testimony in briefs, orders, pleadings, or hearings in this proceeding in accordance with this Order.

~~240~~. Upon written request from the Company within one (1) month from the conclusion of this proceeding or any judicial review proceedings involving security related expenditures, the TRA staff and any party will either return any PROTECTED SECURITY MATERIALS, any notes or memoranda related thereto and any copies thereof to the Company or certify to the Company in writing that all such notes, memoranda and copies have been destroyed. Any electronic copies of PROTECTED SECURITY MATERIALS made by authorized representatives shall be eliminated.

~~221~~. The Attorney General and his staff have authority to enter into non-disclosure agreements pursuant to Tenn. Code Ann. § 65-4-118 which are consistent with state and federal law, regulations and rules.

~~232~~. The Attorney General and his staff agree to keep CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS in a secure place and will not permit them to be seen by any person who is not an employee of the State of Tennessee, the Office of the Attorney General and Reporter, or a person who has signed a Non-disclosure Agreement.

~~2234~~. The Attorney General and his staff may make copies of CONFIDENTIAL INFORMATION and any portion thereof. To the extent permitted by state and federal law, regulations and rules, all notes utilizing supporting information shall be subject to the terms of this Order to the extent factual assertions are derived from the supporting information.

~~254~~. To the extent permitted by state law, the Attorney General will provide timely notice of filing or disclosure in the discharge of the duties of the Office of the Attorney General and Reporter, pursuant to Tenn. Code Ann. § 10-7-504(a)(5)(C) or any other law, regulation or rule, so

that the Company may take action relating to disclosure.

265. The obligations of the Attorney General and his staff under this Order are further subject to the state's Public Records Act and other open records statutes. Nothing in this Order is intended to violate or alter the state's Public Records Act or Freedom of Information Act ("FOIA"). In the event that the Attorney General or member of his staff is served with a subpoena, public records request, FOIA request, or other request that calls for the production of confidential commercial information labeled as "CONFIDENTIAL INFORMATION" or "PROTECTED SECURITY MATERIALS" by the Company, the Attorney General will notify the Company by notifying the undersigned of the existence of the subpoena, public records request, FOIA request, or other request, at least five (5) business days before responding to the request to the extent permitted by state law and orders of a court, as long as the Attorney General or his staff is able to respond to the request within a reasonable time. The Attorney General or his staff may elect to wait to produce such information as allowed by state law in order to provide the Company an opportunity to challenge said subpoena or request or to make arrangements to preserve the confidentiality of the confidential commercial information labeled as "CONFIDENTIAL INFORMATION" or "PROTECTED SECURITY MATERIALS" by the Company that is subject to such request.

276. The designation of any information, documents or things in accordance with this Order as constituting "CONFIDENTIAL INFORMATION" or "PROTECTED SECURITY MATERIALS" and the Attorney General's or his staff's treatment of such material as confidential or proprietary in compliance with this Order is not an admission or agreement by the Attorney General or his staff that the material constitutes or contains confidential commercial information or trade secret information and shall not be deemed to be either a waiver of the state's right to challenge such

designation or an acceptance of such designation. The Company agrees to designate information, documents or things provided to the Attorney General as CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS if it has a good faith basis for the claim. The Company will upon request of the Attorney General or his staff provide a written explanation of the details, including statutory authority that support its CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS claim within five (5) days of a written request. The Company also specifically agrees that it will not designate any documents as CONFIDENTIAL INFORMATION or label such documents as “CONFIDENTIAL” if the documents:

- (a) have been distributed to the public, consumers or others; or
- (b) are not maintained by the Company as CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS.

287. Nothing in this Order shall prevent the Attorney General from using the CONFIDENTIAL INFORMATION and PROTECTED SECURITY MATERIALS received for investigative purposes in the discharge of the duties of the Office of the Attorney General and Reporter. Additionally, nothing in this Order shall prevent the Attorney General from informing state officials and third parties of the fact of an investigation, as needed, to conduct the investigation. Without limiting the scope of this paragraph, nothing in this Order shall prevent the Attorney General from contacting consumers whose names were provided by the Company or from discussing with any consumer any materials that he or she allegedly received from the Company or confirming that a consumer actually received the materials.

298. All information, documents and things designated as CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS and produced in accordance with this

Order may be disclosed in testimony or offered into evidence at any TRA or court hearing, trial, motion or proceeding of this matter, subject to the provisions of this Order, including Paragraph 7, and the applicable Rules of Evidence and any order the TRA may enter to protect the confidentiality of information offered at any hearing or other proceeding. The party who produced the information, documents and things designated as CONFIDENTIAL INFORMATION or PROTECTED SECURITY MATERIALS agrees to stipulate to the authentication of such information, documents and things in any such proceeding. If any Party identifies information in the CONFIDENTIAL INFORMATION the indicates that illegal conduct (civil or criminal) has occurred or may occur, nothing in this Order shall prevent such party from reporting such alleged conduct to the appropriate law enforcement or regulatory agency.

~~30~~29. Nothing in this Agreement is intended to restrict or alter federal or state laws, regulations or rules.

~~34~~0. Any person who has signed a non-disclosure certificate or is otherwise bound by the terms of this Order shall continue to be bound by this Order and/or certificate even if no longer engaged by the TRA or Intervenors.

~~32~~1. Any party aggrieved with the TRA's decision in this matter may file a Petition for Reconsideration with the TRA within fifteen (15) days from and after the date of this Order.

~~33~~2. Any party aggrieved with the TRA's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within

sixty (60) days from and after the date of this Order.

HEARING OFFICER

AGREED TO AND APPROVED FOR ENTRY:

NEAL & HARWELL, PLC

By: _____

William T. Ramsey, #9245

A. Scott Ross, #15634

2000 One Nashville Place

150 Fourth Avenue, North

Nashville, TN 37219-2498

(615) 244-1713 – Telephone

(615) 726-0573 – Facsimile

Counsel for Atmos Energy Corporation

OFFICE OF THE ATTORNEY GENERAL

By: _____

Vance Broemel, #11421

Joe Shirley, #22287

Consumer Advocate and Protection Division

P. O. Box 20207

Nashville, TN 37202

(615) 741-3549 – Telephone

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: _____

Henry M. Walker, #272

1600 Division Street, Suite 700

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Nashville, TN 37203

(615) 252-2363 – Telephone

(615) 252-2380 – Facsimile

Counsel for Atmos Intervention Group

BASS, BERRY & SIMS, PLC

By: _____

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David R. Esquivel, #21459

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Nashville, TN 37238-3001

(615) 742-6244 – Telephone

(615) 742-6293 – Facsimile

Counsel for SouthStar Energy Services LLC, d/b/a

Georgia Natural Gas

WALLER, LANSDEN, DORTCH & DAVIS, LLP

By: _____

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Nashville, TN 37219-8966

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MILLER & MARTIN

By: _____

Melvin J. Malone, #13874

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(615) 256-8197 – Facsimile

Counsel for Atmos Energy Marketing, LLC

FARMER & LUNA

By: _____

____ J. W. Luna, #5780

333 Union Street, Ste. 300

Nashville, TN 37201

(615) 254-9146 Telephone

(615) 254-7123 Facsimile

Counsel for Chattanooga Gas

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 ____ day of

() Hand Vance Broemel, Esq.
() Mail Joe Shirley, Esq.
() Fax Office of the Attorney General
() Fed. Ex. Consumer Advocate and Protection Division
() E-Mail P. O. Box 20207
Nashville, TN 37202

() Hand Henry M. Walker, Esq.
() Mail Boulton, Cummings, Connors, & Berry, PLC
() Fax 1600 Division Street, Suite 700
() Fed. Ex. P. O. Box 340025
() E-Mail Nashville, TN 37203

() Hand R. Dale Grimes, Esq.
() Mail David R. Esquivel, Esq.
() Fax Bass, Berry & Sims, PLC
() Fed. Ex. 315 Deaderick Street, Suite 2700
() E-Mail Nashville, TN 37238-3001

() Hand D. Billye Sanders, Esq.
() Mail Waller, Lansden, Dortch & Davis, LLP
() Fax 511 Union Street, Suite 2700
() Fed. Ex. Nashville, TN 37219-8966
() E-Mail

() Hand John M. Dosker, Esq.
() Mail General Counsel
() Fax Stand Energy Corporation
() Fed. Ex. 1077 Celestial Street
() E-Mail Rockwood Building, Suite 110
Cincinnati, OH 45202-1629

() Hand Melvin Malone, Esq.
() Mail Mark W. Smith, Esq.
() Fax 1200 One Nashville Place
() Fed. Ex. 150 Fourth Avenue, North
() E-Mail Nashville, TN 37219

() Hand Mark H. Johnson, President
() Mail Atmos Energy Marketing, LLC
() Fax 11251 Northwest Freeway, Suite 400
() Fed. Ex. Houston, TX 77092
() E-Mail

~~Vance Broemel~~

111487

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

IN RE:)
)
DOCKET TO EVALUATE ATMOS ENERGY) No. 07-00225
CORPORATION'S GAS PURCHASE AND)
RELATED SHARING INCENTIVES)

~~IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE~~

~~In re: Petition of Atmos Energy Corporation)
for Approval of Tariff Establishing Environmental) Docket No. 07-00084
Cost Recovery Rider)~~

AGREEMENT TO COMPLY WITH PROTECTIVE ORDER

I have reviewed the Protective Order entered in the above captioned matter and agree to abide and be bound by its terms. I understand that unauthorized disclosure of documents labeled "CONFIDENTIAL" or "PROTECTED SECURITY MATERIALS" will be a violation of the Order.

DATE

NAME

STATE OF _____)

COUNTY OF _____)

Personally appeared before me, _____, a Notary Public,
_____ with whom I am personally acquainted, who acknowledged
that he executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this _____ day of _____, _____.

NOTARY PUBLIC

My Commission Expires: _____

~~408344~~

~~6583014.4~~

EXHIBIT C

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

IN RE: PETITION TO OPEN AN)
INVESTIGATION TO DETERMINE)
WHETHER ATMOS ENERGY CORP.)
SHOULD BE REQUIRED BY THE TRA) Docket No. 05-00258
TO APPEAR AND SHOW CAUSE THAT)
ATMOS ENERGY CORP. IS NOT)
OVEREARNING IN VIOLATION OF)
TENNESSEE LAW AND THAT IT IS)
CHARGING RATES THAT ARE JUST)
AND REASONABLE)

Affidavit of Rob Ellis

I, Rob Ellis, after first being duly sworn according to law, hereby depose and say that:

1. I am beyond the age of majority, am competent to make this Affidavit, and have personal knowledge of the matters stated within this Affidavit.

2. I am employed by Atmos Energy Marketing, LLC ("AEM") as Senior Vice President of Marketing. I am based out of AEM's Franklin, Tennessee office.

3. AEM is a non-regulated affiliate of Atmos Energy Corporation. AEM is a full service natural gas marketing company that provides gas supply procurement and asset management services to utilities, industrial facilities, power plants and gas producers in several states, including Tennessee. In 2003, Atmos Energy Corporation issued a request for proposals for asset management services. AEM was the successful bidder and currently provides asset management services to Atmos Energy Corporation in addition to its other customers.

4. In the course of my employment with AEM, I have become familiar with Mr. Earl Burton and his company, Tennessee Energy Consultants. The aspect of Mr. Burton's business that I am most familiar with is the consulting services he provides to industrial and municipal clients



with regard to contracting with marketers for gas supply. Mr. Burton regularly competes with AEM for these gas supply contracts.

5. Typically, Mr. Burton offers to assist the industrial or municipal client in selecting a marketer and negotiating a contract with that marketer for gas supply. The market for such gas supply contracts is highly competitive. Many of Mr. Burton's clients are located in East Tennessee. AEM has numerous industrial and municipal customers in East Tennessee and throughout the state that have contracted with AEM for their gas supply.

6. Mr. Burton regularly contacts industrial and municipal customers with existing contracts with AEM and represents that the rates charged by AEM are too high, and that he can negotiate a better deal for the customer with a supplier other than AEM. Mr. Burton typically negotiates a fee for his services that includes a percentage of any savings the customer achieves as a result of entering into a contract with a supplier other than AEM. Attached as collective Exhibit 1 to this Affidavit are copies of solicitations Mr. Burton sent to both current and prospective AEM customers offering to arrange service for the customer with suppliers other than AEM. These solicitations are typical of the type Mr. Burton sends to AEM customers and prospects.

7. Included within collective Exhibit 1 is a October 19, 2004 e-mail Mr. Burton sent to a distribution list Mr. Burton has compiled consisting of existing AEM customers, as well as prospective customers of AEM. Mr. Burton sends similar communications to the AEM customer list he has compiled, which like the example attached, offer to negotiate better contracts for the customer with competing marketers other than AEM.

8. Also included within collective Exhibit 1 is a copy of a July 11, 2005 letter Mr. Burton sent to a current AEM customer. In that letter, Mr. Burton represents that he is very involved in consulting with AEM customers "to identify gas marketer practices that are costing

Tennessee gas users hundreds of thousands per year.” Mr. Burton’s letter continues by accusing AEM of mismanagement of assets, and stating that “I am confident that Tennessee Energy Consultants can assist you by objectively auditing the current procurement activities of your supplier [AEM] and facilitate [sic] competition by soliciting other gas suppliers to bid on you [sic] gas requirements.” Mr. Burton closes by offering to take a fee based on a percentage of the customer’s savings. The July 11, 2005 is typical of his frequent communications with AEM customers and confirms that a regular part of Mr. Burton’s business is competing with AEM by soliciting AEM customers to change to a different marketer for their gas supply needs.

9. Also included within collective Exhibit 1 is a copy of an August 18, 2005 letter Mr. Burton sent to an existing AEM customer. In that letter, Mr. Burton states, in reference to AEM, that “I hope you understand the wisdom of hiring someone like Tennessee Energy Consultants who is objective to reducing your costs in lieu of a gas marketer that is an affiliate of the largest gas distribution company in the United States.” It is obvious from this statement that Mr. Burton is in direct competition with AEM for this customer’s business.

10. I have reviewed a copy of the Atmos Intervention Group’s First Round of Discovery submitted in this docket. In my opinion, the majority of the requests submitted by Atmos Intervention Group appear to have been drafted for the specific purpose of aiding Mr. Burton’s efforts to compete with AEM.

12. The data requests submitted by the Atmos Intervention Group seek information which AEM maintains as confidential trade secrets. The information is valuable to AEM, and would harm AEM economically if it were made public or if it were shared with Mr. Burton or other competitors of AEM.

FURTHER AFFIANT SAITH NOT.

Rob Ellis
Rob Ellis

STATE OF Louisiana

COUNTY OF Orleans

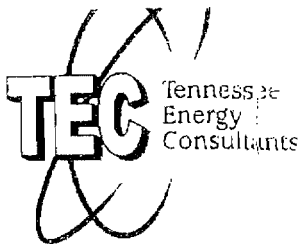
Personally appeared before me, Rob Ellis, a Notary Public in and for said State and County, Rob Ellis, the within named affiant, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and seal at office, on this 7th day of June, 2006.

Notary Public
ALAN W. MORRIS
#82386

My Commission Expires:

LIFETIME



Natural Gas - Energy
Agents
Managers
Engineers



Profile:

Mission Statement: To provide users with the objective of minim of facility improvements and mai

Differentiating Value: Without requirements, energy users are fa Consultants (TEC) will provide a experience, and engineering resou services to energy users.

Principle Owner: Earl Burton I

- Professional Engineer: Tenne
- Masters in Business Administ
- 4 Years Experience in Tennes
- 18 Years Gas Industry Experie
- Extensive Gas Rates and Tarif
- Member of American Society
- Chartered Gas Consultant- Gas Technology Institute
- Extensive Natural Gas System and Operating Experience
- Extensive Account Management skills and accounting knowledge.
- System knowledge of gas utility billing, firm and major accounts.

Services

- Energy auditing
- Review requirements, develop contract terms with suppliers.
- Review requirements, select optimum rate tariff
- Coordinate supply and schedule deliveries
- Develop strategic purchasing plans to mitigate risk and smooth volatility
- Audit Invoices, verify payment approval, and request refunds

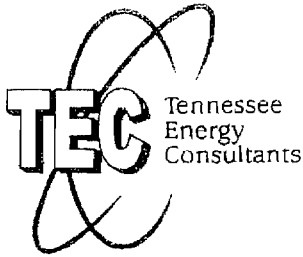
Stopped by to introduce myself
I am helping [redacted]
gas purchasing. They are not getting
the best deal on the market.

I work with several shippers on EAST
TN, & now gas producers that will have
cheaper gas on East TN

CAN I come up sometime to discuss
how I can save you on costs
[redacted] was not utilizing their gas
storage. Picked up thousands

Thanks
Earl Burton





July 11, 2005

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr. Busby,

It was a pleasure to meet with you and [REDACTED] to discuss natural gas supply options for [REDACTED]. We look forward to working with [REDACTED] and appreciate your willingness to consider competitive options that will reduce costs for natural gas customers of [REDACTED].

As we discussed, my experience as rate manager with Chattanooga Gas Company gives me valuable insight into the various costs of natural gas service for municipalities, LDC's and industrial gas users. I work with other natural gas shippers that manage assets on Texas Eastern and East Tennessee, and I am confident that the natural gas costs can be significantly reduced by bidding out [REDACTED] gas requirements.

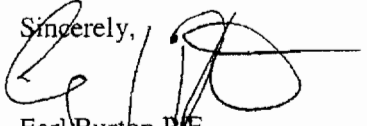
I have been very involved with auditing and overseeing natural gas marketer activities in Tennessee, and have worked with the Tennessee Regulatory Authority, Chattanooga Manufacturer's Association and industrial endusers served by Atmos Energy to identify gas marketer practices that are costing Tennessee gas users hundreds of thousands per year. Some of these activities include mismanagement of storage assets or siphoning the value of storage and diverting this profit to marketing affiliates, and subscribing to more capacity and pipeline assets needed and using this in other markets for profit.

What measures can [REDACTED] undertake to ensure that their customers are receiving the lowest gas costs? I am confident that Tennessee Energy Consultants can assist you by objectively auditing the current procurement activities of your supplier and facilitate competition by soliciting other gas suppliers to bid on your gas requirements.

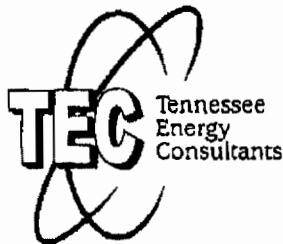
What will this cost [REDACTED]? I would like to meet with [REDACTED] and work out a fee arrangement including one that is performance based and pays TEC only if my efforts result in reducing natural gas transportation rates for [REDACTED].

I have enclosed a draft agreement with a scope of work that I recommend that [REDACTED] should include in my agreement. I look forward to discussing this proposal with you, and begin working on this project as soon as we can agree to terms.

Sincerely,

A handwritten signature in black ink, appearing to be 'Earl Burton', with a large, stylized loop at the end.

Earl Burton P.E.
Tennessee Energy Consultants
423-421-3732



100 E. 10th Street, Suite 101 • Chattanooga, TN 37403 • (423) 421-5000

August 18, 2005

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

I have reviewed the East Tennessee and Texas Eastern invoicing for [REDACTED] and would present the following initial costs items that need to be addressed.

- Significant savings can be achieved by dispatching the lowest costs natural gas every month. The savings per dekatherm that can be secured can be as much as \$.50 per dekatherm.
- I have indentified the costs of transportation, and can calculate the margins earned by Atmos Energy Marketing margins. This should give [REDACTED] some leverage in negotiating transport rates.
- Reservation charges are charged based on year round charges acquired by Atmos Energy Marketing. The charges for Tennessee Pipeline are considerably higher than prevailing marketing prices for release capacity on this pipeline. These discounts should flow to [REDACTED] if Atmos Energy Marketing is purchasing capacity at discounted rates.
- Natural gas prices were fixed on Nymex index. An alternate index can be used to save [REDACTED] as much as \$.05 to \$.08 per dekatherm on all fixed volumes.

Strategy: Tennessee Energy Consultants will not make any quick recommendations regarding changing suppliers. With the information that I can provide through a detailed audit findings, this will allow us to negotiate better costs with Atmos Energy Marketing, and will prompt them to move gas from the lowest costs source, and reduce transportation costs.

[REDACTED] long term strategy to begin the 2nd Quarter of 2006 should be to review some other proposals from competitive suppliers, and allow Atmos an opportunity to keep your business. Competition for [REDACTED] business will reduce rates for your residential, commercial and industrial customers. I have considerable experience with working with other shippers on East Tennessee that serve existing municipalities. I know how to structure these competitive offers from other suppliers, however we would interview each

supplier and the municipalities they serve, and provide assurance that [REDACTED] is 100% comfortable with another supplier before any change is made.

Compensation: I have forwarded a performance agreement to [REDACTED] for review. I would be glad to work with [REDACTED] in whatever compensation arrangement that you are most comfortable with which could include a fixed retainer or performance fee based on savings. Upon reviewing your arrangement with Atmos Energy Marketing, I am confident that I can be fairly compensated on a percent of overall savings. I believe that my services will be needed on an ongoing basis to ensure that your costs are minimized.

I hope you understand the wisdom on hiring someone like Tennessee Energy Consultants who is objective to reducing your costs in lieu of a gas marketer that is an affiliate of the largest gas distribution company in the United States. I am confident that considerable savings can be flowed to your residential, commercial and industrial customers.

Sincerely,



Earl Burton P.E.

Tennessee Energy Consultants
423-421-3732

[REDACTED]

EXHIBIT D

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

IN RE:)	
)	
DOCKET TO EVALUATE)	
ATMOS ENERGY CORPORATION'S)	
GAS PURCHASES AND RELATED)	DOCKET NO. 07-00225
SHARING INCENTIVES)	
)	
)	
)	
)	

AFFIDAVIT OF ROB ELLIS

STATE OF TENNESSEE)
)
COUNTY OF WILLIAMSON)

I, Rob Ellis, hereby swear and affirm that I have personal knowledge of the following statements and that they are true to the best of my knowledge, information and belief:

1. I am over the age of eighteen (18) and competent to testify to the matters contained herein.
2. I am employed by Atmos Energy Marketing, LLC ("AEM" or the "Company") as Senior Vice President of Marketing.
3. AEM, a non-regulated affiliate of Atmos Energy Corporation, is a full-service natural gas marketing company that provides gas supply procurement and asset management services to various types of natural gas users, including utilities, industrial facilities, power plants and gas producers, in several states, including Tennessee.

4. As Senior Vice President of Marketing for AEM, I am familiar with the services that AEM provides, and I am also generally familiar with our competitors, including, but not limited to, Stand Energy Corporation.

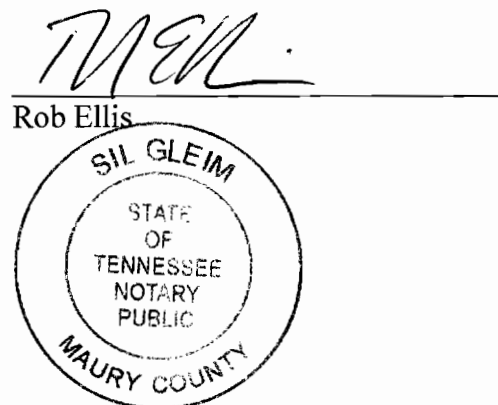
5. I am familiar with the issues related to the Protective Order in TRA Docket No. 07-00225.

6. I have reviewed the discovery requests served in relation to TRA Docket No. 07-00225 on or about December 28, 2007, by Atmos Intervention Group and the Office of the Tennessee Attorney General and Reporter, Consumer Advocate and Protection Division. AEM's responses to some of the requests will require the disclosure of confidential and proprietary trade secrets or commercially sensitive AEM information that is not generally known. AEM has consistently worked to keep this type of information confidential and to prevent its disclosure to the public in general and to AEM's competitors in particular. As such, the disclosure of the same to an AEM competitor would result in substantial harm to AEM.

7. I base the foregoing on my personal knowledge, information and belief. Further the affiant saith not.

Sworn to and subscribed
before me this 4 day
of January 2008.

Sil Gleim
Notary Public



My commission expires: _____ MY COMMISSION EXPIRES MAY 19, 2009