

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 5, 2008

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

**ORDER ON FEBRUARY 29, 2008 STATUS CONFERENCE: GRANTING AN
EXTENSION AND SUSPENDING THE PROCEDURAL SCHEDULE**

This docket came before the Hearing Officer at a Status Conference held on February 29, 2008, in order to assess the status of the first round of discovery and, if necessary, to revise the procedural schedule.

I. RELEVANT PROCEDURAL HISTORY

The procedural schedule in this docket initially provided for the filing of responses and objections to the first round of discovery requests on February 19, 2008.¹ On February 15, 2008, Atmos Energy Marketing, LLC ("AEM") filed a motion requesting an extension of time to February 26, 2008, to file its responses to the discovery requests filed by the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate") and the Atmos Intervention Group ("AIG").² By order entered on February 15, 2008, the motion

¹ *Order on December 13, 2007 Status Conference, Attachment B* (Dec. 21, 2007).

² *Atmos Energy Marketing, LLC's Motion for an Extension of Time to Respond to First Round of Discovery Requests from the Consumer Advocate and Protection Division and AIG and Memorandum in Support* (Feb. 15, 2008).

was granted and the due date was extended to February 26, 2008.³ Despite this extension, it remained that motions to compel were due on February 25, 2008, and responses thereto were due on February 27, 2008. Additionally, the schedule included a status conference to be held, if necessary, at 9:00 a.m. on Friday, February 29, 2008 to hear motions to compel.⁴

The only filing made on February 25, 2008, was the *Motion to Compel Atmos Energy Corporation to Answer the First Discovery Requests of the Consumer Advocate and Protection Division and to Suspend Hearing on the Motion While the Parties Attempt to Resolve These Issues* (“*Motion to Compel*”) filed by the Consumer Advocate. On February 27, 2008, Atmos Energy Corporation (“AEC”) filed a preliminary response to the Consumer Advocate’s *Motion to Compel*. In both the *Motion to Compel* and the preliminary response, the parties asked that the *Motion to Compel* not be heard at the status conference scheduled for February 29, 2008, and that the parties be given an opportunity to work out the disputes. On February 26, 2008, AEM filed *Atmos Energy Marketing, LLC’s Second Motion for an Extension of Time to Respond to First Round of Discovery Requests from the Consumer Advocate and Protection Division and AIG and Memorandum in Support* (“*Motion for Extension*”) requesting that the deadline for filing AEM’s responses to the discovery requests filed by the Consumer Advocate and AIG be extended to March 4, 2008.

A *Notice of Status Conference* issued on February 26, 2008. As stated in the notice, the purposes of the conference are to assess the status of the first round of discovery and, if necessary, to revise the procedural schedule. The Status Conference began as noticed at 9:00

³ *Order Granting Request for Extension* (Feb. 15, 2008).

⁴ *Order on December 13, 2007 Status Conference*, Attachment B (Dec. 21, 2007).

a.m. in the Hearing Room of the Tennessee Regulatory Authority. The parties in attendance were as follows:

Atmos Energy Corporation – A. Scott Ross Esq., Neal & Harwell, 150 4th Avenue North, Suite 2000, Nashville, Tennessee, 37219;

Atmos Energy Marketing, LLC – Melvin J. Malone, Esq., Miller & Martin PLLC, 1200 One Nashville Place, 150 4th Avenue North, Nashville, Tennessee, 37219;

Atmos Intervention Group – Henry M. Walker, Esq., Boulton, Cummings, Conners & Berry, PLC, 1600 Division Street, Suite 700, P.O. Box 340025, Nashville, Tennessee 37203 (participating telephonically);

Consumer Advocate and Protection Division of the Office of the Attorney General – Vance Broemel, Esq. and Joe Shirley, Esq., Office of the Attorney General, P.O. Box 20207, Nashville, Tennessee, 37202; and

Stand Energy Corporation – D. Billye Sanders, Esq., Waller, Lansden, Dortch & Davis, LLP, 511 Union Street, Suite 2700, Nashville, Tennessee 37219.

II. STATUS CONFERENCE PROCEEDINGS AND DECISIONS

During the Status Conference, I summarized the relevant procedural history. Thereafter, I concluded that there are no discovery disputes outstanding between Stand Energy Corporation (“Stand”) and any other party or between AIG and AEC. All parties agreed with this conclusion.

As to the *Motion to Compel*, the Consumer Advocate stated that it anticipates that it will receive all needed information from AEC and that the *Motion to Compel* will be withdrawn. AEC agreed that the parties are working together to resolve all discovery disputes.

As to the *Motion for Extension*, AEM noted that they provided AIG with discovery responses on February 28, 2008, and that all outstanding responses due to AIG will be included in the responses to the Consumer Advocate. AEM stated that it expects to be able to file the responses to the Consumer Advocate’s request by March 4, 2008. However, AEM noted that there have been technical problems related to the volume of the responses and those problems could necessitate a further extension. After further discussion, AEM decided to amend its

request for an extension from May 4, 2008, to May 7, 2008. No party objected to the extension as amended. Based on the representations as to the on-going efforts to compile and the difficulties associated with compiling the discovery responses and the lack of objection, I conclude that the extension should be granted.

As a result of the parties' efforts to resolve discovery disputes through negotiations, the extension granted for the filing of certain responses to discovery, and the March 27, 2008, testimony due date, I offered for comment the suggestion of suspending the procedural schedule. No party objected to suspending the procedural schedule; however, Stand expressed concern over the potential for delay.⁵ Noting Stand's concerns and recognizing the lack of objection, I ordered that the procedural schedule be suspended. While not specifically discussed at the Status Conference, it is my opinion that in order to keep informed of the proceedings and to avoid unnecessary delay, the parties must file by no later than Friday, March 14, 2008, a status update. The update should include a statement as to whether any discovery disputes remain outstanding, a proposed hearing process for resolving any outstanding discovery disputes, and a proposed date for the filing of the Consumer Advocate's, Stand's and AIG's pre-filed direct testimony.

IT IS THEREFORE ORDERED THAT:

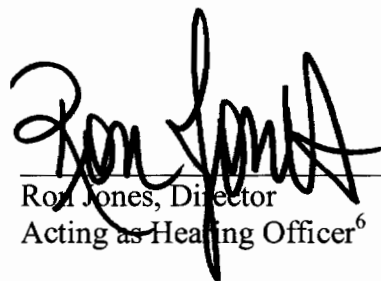
1. *Atmos Energy Marketing, LLC's Second Motion for an Extension of Time to Respond to First Round of Discovery Requests from the Consumer Advocate and Protection Division and AIG and Memorandum in Support*, as amended during the February 29, 2008, Status Conference, is granted such that Atmos Energy Marketing, LLC shall file its responses to

⁵ AEM's response to discovery has resulted in the production of "approximately 29,000 documents requiring various designations." *Atmos Energy Marketing, LLC's Second Motion for an Extension of Time to Respond to First Round of Discovery Requests from the Consumer Advocate and Protection Division and AIG and Memorandum in Support*, p. 3 (Feb. 26, 2008). I conclude that providing AEM additional time to organize this volume of information supports a reasonable and necessary recalibration of the procedural schedule.

the outstanding discovery requests of the Atmos Intervention Group and the Consumer Advocate and Protection Division by **Friday, March 7, 2008, at 2:00 p.m.**

2. The procedural schedule is suspended until otherwise ordered.

3. The parties shall file by **Friday, March 14, 2008, at 2:00 p.m.** a status update, which shall include a statement as to whether any discovery disputes remain outstanding, a proposed hearing process for resolving any outstanding discovery disputes, and a proposed date for the filing of the Consumer Advocate's, Stand's, and AIG's pre-filed direct testimony.



Ron Jones, Director
Acting as Hearing Officer⁶

⁶ During the deliberations in Docket Nos. 05-00253 and 05-00258 on August 20, 2007, the panel voted to open a new docket and appointed Director Jones to serve as the Hearing Officer for the purposes of preparing the newly-opened docket for hearing by the panel. *See* Transcript of Authority Conference, pp. 36-50 (Aug. 20, 2007).