

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 12, 2008

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

---

**ORDER ON AGREED MOTION FOR A CONTINUANCE OF THE MAY 15, 2008,  
STATUS CONFERENCE**

---

This docket came before the Hearing Officer for consideration of the *Agreed Motion for a Continuance of the May 15, 2008, Status Conference* filed on May 9, 2008 by Atmos Energy Marketing, LLC ("AEM"), Atmos Energy Corporation ("AEC"), the Atmos Intervention Group ("AIG"), and Robert E. Cooper, Jr., Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate and Protection Division ("Consumer Advocate").

**I. RELEVANT PROCEDURAL HISTORY**

In the *Order on February 29, 2008 Status Conference: Granting Extension and Suspending Procedural Schedule* issued on March 5, 2008, the parties were directed to file a status update by March 14, 2008. On March 14, 2008, the Consumer Advocate filed a status report explaining that it has resolved differences with AEC and is continuing to work with AEM on completing the first round of discovery. The Consumer Advocate noted that it would file any necessary motions with regard to discovery after completing its review of the materials provided by AEM and working with AEM. The Consumer Advocate requested that the Hearing Officer continue to hold the procedural schedule in abeyance pending the completion of the first round

of discovery. On March 19, 2008, a *Notice of Filing* issued that provided that in the event that no further filings related to the completion of discovery are made prior to April 18, 2008, the parties are directed to file a second status update by April 18, 2008.

On April 18, 2008, AEM filed the *Second Status Report Regarding Outstanding Discovery Issues* (“*Second Status Report*”), which the Consumer Advocate and AEC approved. In the *Second Status Report*, AEM provided a narrative of the interactions between the parties and proposed a procedural schedule. Specifically, AEM explained that neither AIG nor AEC have any outstanding issues with any other party and that the Consumer Advocate and AEM are continuing to work cooperatively on outstanding discovery disputes.<sup>1</sup> The schedule proposed in the *Second Status Report* provided:

- If necessary, the CAD will submit a motion to compel on or before 2:00 p.m. on May 2, 2008.
- If necessary, AEM will respond to any motion to compel filed by the CAD on or before 2:00 p.m. on May 8, 2008.
- If necessary, a Status Conference on any such motion to compel related to the CAD’s first round of discovery requests to AEM may be set, depending upon the Hearing Officer’s availability, on May 15, 2008, at 9:00 a.m.
- At the May 15, 2008, Status Conference, the Hearing Officer may set a future date for a Status Conference to establish future procedural deadlines and dates.<sup>2</sup>

On April 23, 2008, the *Order on Second Status Report Regarding Outstanding Discovery Issues* issued and included the adoption of the proposed procedural schedule.

In accordance with the procedural schedule, the Consumer Advocate filed the *Motion to Compel Atmos Energy Marketing, LLC to Answer the First Discovery Requests of the Consumer Advocate and Protection Division* (“*Motion to Compel*”) on May 2, 2008, asserting claims with regard to discovery requests AEM4 and AEM16. A *Notice of Status Conference* issued on May

---

<sup>1</sup> *Second Status Report Regarding Outstanding Discovery Issues*, 1 (Apr. 18, 2008).

<sup>2</sup> *Id.* at 2.

6, 2008. As stated in the notice, the purposes of the conference were to hear arguments on the *Motion to Compel* and to set further procedural dates to the extent possible. On May 7, 2008, AEM filed supplemental responses to AEM4 and AEM16, and on May 8, 2008, AEM filed its opposition to the *Motion to Compel*. On May 9, 2008, the parties filed the *Agreed Motion for a Continuance of the May 15, 2008, Status Conference* (“*Agreed Motion*”).

## II. FINDINGS AND CONCLUSIONS

In the *Agreed Motion*, the parties request that the status conference set for May 15, 2008, be continued until May 20, 2008. The parties explain that AEM “has developed an unavoidable scheduling conflict” with May 15, 2008.<sup>3</sup> I find that the motion is well-taken and should be granted.

Additionally, I also question whether a status conference is needed at all, but am without sufficient information upon which to make a definitive determination. To explain, it is unknown at this time whether the May 7th supplemental discovery responses offered by AEM satisfy the needs of the Consumer Advocate thereby negating any need to address the *Motion to Compel*. Further, given the fact that my term as a Director and, therefore, as Hearing Officer expires on June 30, 2008, it is my opinion that it is appropriate at this time to schedule only those procedural events that do not directly involve a hearing officer. In this docket, such procedural events are the filing of:

1. Supplemental Responses to AEM4 and AEM16 (in the event the *Motion to Compel* is granted);
2. Pre-Filed Direct Testimony by the Consumer Advocate and AIG;
3. Second Round Discovery Requests;
4. Second Round Discovery Responses and Objections;
5. Second Round Motions to Compel; and
6. Second Round Responses to Motions to Compel.

---

<sup>3</sup> *Agreed Motion for a Continuance of the May 15, 2008, Status Conference*, 1 (May 9, 2008).

Given that the completion of these events does not require the involvement of a hearing officer, if the parties can agree on dates for the events and if AEM has satisfied the needs of the Consumer Advocate as expressed in the *Motion to Compel*, then there is no need for a status conference. Therefore, it is the opinion of the Hearing Officer that, for the purposes of holding the date, a Status Conference shall be scheduled for May 20, 2008, at 9:00 a.m. However, the Consumer Advocate is instructed to notify the Hearing Officer by May 15, 2008, at 2:00 p.m. whether there remains any need to address the *Motion to Compel*. Additionally, all parties shall jointly notify the Hearing Officer by May 16, 2008, at 2:00 p.m. whether the parties have been able to agree to dates for the six procedural events listed above.

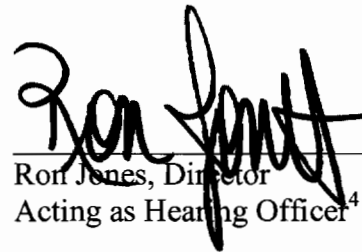
**IT IS THEREFORE ORDERED THAT:**

1. The *Agreed Motion for a Continuance of the May 15, 2008, Status Conference* filed on May 9, 2008, by Atmos Energy Marketing, LLC, Atmos Energy Corporation, the Atmos Intervention Group, and Robert E. Cooper, Jr., Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate and Protection Division, is granted.
2. A Status Conference is scheduled for **May 20, 2008, at 9:00 a.m.** for the purposes of addressing the *Motion to Compel Atmos Energy Marketing, LLC to Answer the First Discovery Requests of the Consumer Advocate and Protection Division* filed on May 2, 2008 and setting future procedural dates.
3. The Consumer Advocate and Protection Division shall notify the Hearing Officer by May 15, 2008, at 2:00 p.m. whether there remains any need to address the *Motion to Compel Atmos Energy Marketing, LLC to Answer the First Discovery Requests of the Consumer Advocate and Protection Division* filed on May 2, 2008.

4. All parties shall jointly notify the Hearing Officer by May 16, 2008, at 2:00 p.m.

whether the parties have been able to agree to dates for the filing of:

- a. Supplemental Responses to AEM4 and AEM16 (in the event the *Motion to Compel* is granted);
- b. Pre-Filed Direct Testimony by the Consumer Advocate and AIG;
- c. Second Round Discovery Requests;
- d. Second Round Discovery Responses and Objections;
- e. Second Round Motions to Compel; and
- f. Second Round Responses to Motions to Compel.



Ron Jones, Director  
Acting as Hearing Officer<sup>4</sup>

---

<sup>4</sup> 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).