

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

<b>IN RE: PETITION OF ATMOS ENERGY</b>	)	
<b>CORPORATION FOR APPROVAL OF</b>	)	<b>DOCKET NO. 08-00024</b>
<b>THE CONTRACT(S) REGARDING GAS</b>	)	
<b>COMMODITY REQUIREMENTS AND</b>	)	
<b>AND MANAGEMENT OR</b>	)	
<b>TRANSPORTATION STORAGE</b>	)	
<b>CONTRACTS</b>	)	

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**ATMOS ENERGY CORPORATION'S SUPPLEMENTAL RESPONSE TO  
CONSUMER ADVOCATE'S DISCOVERY REQUEST NO. 5**

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AEC5.           Please state whether Atmos believes that any documents and/or information provided in responses to Requests 1-4 above, are confidential. If so, state which information is confidential and the reasons for that contention.

**ORIGINAL RESPONSE:**

The information produced by AEC and labeled CAPD1-3 ATT2 and CAPD1-4 ATT1 is highly confidential because this reflects communications between AEC and prospective and/or actual bidders. The bidding process is only effective if bidders are assured that their bids are submitted to AEC on a confidential basis and retain that status inasmuch as disclosure of their information could be a detriment to the competitive nature of the entire bidding process. The bids were submitted under a promise of confidentiality, which was part of the RFP that was issued in this case. If AEC were forced to break that promise by unsealing the sealed bids in this matter, it would have a very significant and negative chilling impact on future bids. The end result would be fewer bids submitted, a less competitive bidding process, and ultimately higher costs for Tennessee gas

consumers. This would be the case even if it were several years before the next bidding process occurred. Even after the passage of several years, the bids submitted in this RFP would contain valuable information about how the bidder evaluated the RFP through the pricing and service terms offered.

Potential bidders were encouraged to submit questions to Atmos regarding the RFP. Atmos' responses were sent to all potential bidders, but the identity of the company submitting the questions was kept confidential. For this reason the correspondence log sheet attached to Response to AEC4 is highly confidential. Additionally the log sheet identifies the bidders and the outcome of the RFP bid process, which is highly confidential information.

#### **SUPPLEMENTAL RESPONSE:**

As AEC has already explained in response to discovery requests submitted by the TRA Staff in this matter, the Request for Proposals (RFP) for asset management and gas commodity supply was a combined proposal in an effort to solicit a larger number of prospective bids and to comply with a pending rulemaking by the Federal Energy Regulatory Commission concerning asset management arrangements. Under the combined proposal, prospective bidders were asked to submit their bids based upon index-based commodity prices, city-gate delivery services where specified, asset management consideration, and miscellaneous services. AEC selected the bid that represented the best overall combined value for ratepayers in the form of the lowest gas cost. In this case, that was the bid submitted by AEM. After factoring in the pricing for baseload commodity, the provision of city-gate delivery services, the provision of miscellaneous services such as nominations and

scheduling, and the amount to be received from the asset manager for the conditional use (subordinate to the needs of the utility) of the pipeline and storage capacity assets, the net cost to AEC under the AEM bid was the lowest.

In other words, this is not a contract for which the winning bid is a single price. Each pricing component is a key piece of the overall bid structure. This pricing structure is entitled to confidential treatment and should not be made public either piecemeal or in its entirety. If AEC, within the context of a competitive bidding arrangement, were required to inform bidders that their bids, or a part thereof, such as the amount of the proposed asset management payment, would be made public, then the effectiveness of the RFP process would be diluted or even nullified, because companies bidding on these contracts would be reluctant to bid knowing that by doing so they would risk disclosing such information to their competitors.

Respectfully submitted,

**NEAL & HARWELL, PLC**

By: 

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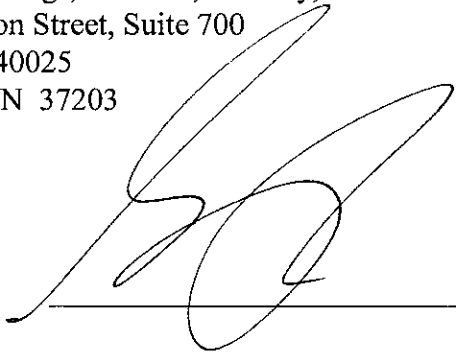
*Counsel for Atmos Energy Corporation*

**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, this the 29<sup>th</sup> day of April, 2008.

<input type="checkbox"/> Hand	Vance Broemel, Esq.
<input type="checkbox"/> Mail	Joe Shirley, Esq.
<input type="checkbox"/> Fax	Office of Tennessee Attorney General
<input type="checkbox"/> Fed. Ex.	425 Fifth Avenue, North, Third Floor
<input checked="" type="checkbox"/> E-Mail	P. O. Box 20207
	Nashville, TN 37202-0207

<input type="checkbox"/> Hand	Henry M. Walker, Esq.
<input type="checkbox"/> Mail	Boult, Cummings, Conners, & Berry, PLC
<input type="checkbox"/> Fax	1600 Division Street, Suite 700
<input type="checkbox"/> Fed. Ex.	P. O. Box 340025
<input checked="" type="checkbox"/> E-Mail	Nashville, TN 37203

  
A handwritten signature in black ink, appearing to be "H. Walker", is written over a horizontal line.