

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

**IN RE:**

|                                    |   |                            |
|------------------------------------|---|----------------------------|
| <b>PETITION OF ATMOS ENERGY</b>    | ) |                            |
| <b>CORPORATION FOR APPROVAL OF</b> | ) |                            |
| <b>ADJUSTMENT OF ITS RATES AND</b> | ) | <b>DOCKET NO. 08-00197</b> |
| <b>REFISED TARIFF</b>              | ) |                            |

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**OBJECTIONS OF THE CONSUMER ADVOCATE AND PROTECTION DIVISION TO  
THE FIRST DISCOVERY REQUEST OF ATMOS ENERGY CORPORATION**

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Robert E. Cooper, Jr., Attorney General and Reporter for the State of Tennessee, by and through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), pursuant to the scheduling order entered in this docket, hereby submits its objections to the first discovery request of Atmos Energy Company ("Atmos", "company"). These objections are made in order to preserve the procedural rights of the Consumer Advocate as provided for in the *Tennessee Rules of Civil Procedure*. The objections made herein should not be interpreted to signal an unwillingness to engage in discussions among the parties to resolve any discovery dispute. The Consumer Advocate is willing to discuss and resolve such discovery disputes with the company in a good faith effort to move the proceedings along.

**GENERAL OBJECTIONS**

A. The Consumer Advocate objects to the requests to the extent they attempt to impose on the Consumer Advocate a burden or obligation greater than that required by the Tennessee Rules of Civil Procedure and applicable statutes and regulations governing contested case hearings.

B. The Consumer Advocate objects to the requests to the extent they call for information or documents protected from disclosure by the attorney-client privilege, common interest privilege, work product doctrine, or any other applicable privilege or protection. The Consumer Advocate objects to the requests to the extent that Atmos is attempting to impose on the Consumer Advocate obligations with regard to identification of privileged documents beyond those required by the Tennessee Rules of Civil Procedure and applicable statutes and regulations governing contested case hearings.

C. The Consumer Advocates objects to the requests to the extent they seek information relating to matters not at issue in this litigation or to the extent they are not reasonably calculated to lead to the discovery of admissible evidence. By providing information in response to these requests, the Consumer Advocate does not concede that such information is relevant, admissible, or discoverable, or that other information on the same or similar subjects would be discoverable. The Consumer Advocate expressly reserves the right to: (a) object to other discovery requests, despite their involving or relating to the subject matter of any of the requests responded to here; and (b) object to the introduction into evidence of any answer or produced document on relevancy or any other grounds. The Consumer Advocate further objects to the requests on the grounds that they are overly broad and unduly burdensome. While the Consumer Advocate will provide certain information and documents in response to these requests, for purposes of the record it should be understood that the Consumer Advocate objects on these grounds to the requests to the extent they seek information or documents beyond what is produced by the Consumer Advocate.

D. The Consumer Advocate objects to the requests to the extent that Atmos is attempting to require the Consumer Advocate to provide information and produce documents

beyond those in its possession, custody, or control as that phrase is used in the Tennessee Rules of Civil Procedure and applicable statutes and regulations governing contested case hearings.

E. The Consumer Advocate objects to the requests to the extent they seek information and documents that are available through public sources or are in Atmos' own possession, custody or control. It is unduly burdensome to require the Consumer Advocate to respond or produce documents that are equally available to Atmos.

F. The Consumer Advocate objects to the requests to the extent Atmos is attempting to impose on the Consumer Advocate obligations to supplement its responses beyond those required by the Tennessee Rules of Civil Procedure and applicable statutes and regulations governing contested case hearings. The Consumer Advocate will supplement its responses in accordance with the requirements of state law.

G. The Consumer Advocate's objections and responses to the requests are and will be based on information then known to it. The Consumer Advocate reserves the right to amend, modify or supplement its objections and responses if it learns of new information.

H. The Consumer Advocate's objections and responses to the requests are and will be made without waiving or intending to waive the right to object to the use of any information provided in any subsequent proceeding or trial of this or any other action. The Consumer Advocate's responses to the requests are also not a waiver of any of the foregoing objections or any objections it has made or may make with respect to any similar, related, or future request, and the Consumer Advocate specifically reserves the right to interpose any objection to further requests notwithstanding any response or lack of objection made in this response.

I. Because these objections must be made in advance of the actual production of documents and responses by the Consumer Advocate, the Consumer Advocate is unable at this

time to identify or list every possible problem that it may encounter in connection with the production of the information and documents requested herein, although it has done its best to do so in the time available to this point. Out of an abundance of caution, therefore, in order to preclude any argument that it has waived the right to object to literal and unbending compliance with each and every request as written, the Consumer Advocate objects to the requests as unreasonably burdensome, both individually and in total.

J. The Consumer Advocate expressly incorporates these general objections in response to each of the discovery requests in this case, whether or not separately listed below.

#### **SPECIFIC OBJECTIONS TO SPECIFIC DISCOVERY QUESTION**

1. Please identify each person whom you expect to call as an expert witness at the hearing on the merits in this docket, and for each such expert witness:

- (a) Provide a complete educational, professional and employment history. Include in your response a complete disclosure of all aspects of the expert's education and employment background that you contend qualify the witness to render expert testimony on the issues on which he will testify in this case. Please be sure to include the date(s) applicable to each entry;
- (b) Separately for each expert witness, list all degrees, licenses, and certifications that the witness holds in any of the areas in which he will offer expert testimony in this case. Also include the entity that awarded the degree, license, or certification, and the year in which it was awarded;
- (c) Separately for each expert witness, list each published scholarly work (article, book chapter, book, etc.) that the witness has written on any of the subjects about which he will offer expert testimony in this case. Provide a citation to the work that includes the title, date, and publication. Indicate whether the work was subject to peer review before publication. Produce and separately identify all such works;
- (d) List all other scholarly works that each of your experts has written. Provide a citation to the work that includes the title, date, and publication. Indicate whether the work was subject to peer review before publication. Produce and separately identify all such works.

- (e) Separately for each expert witness, list and describe each scholarly presentation that the witness has made on any of the subjects about which he will offer expert testimony in this case. Provide the subject of the presentation, the group to which the presentation was made, and the title and subject of the presentation. Produce and separately identify all written materials from each such presentation.
- (f) List and describe all other scholarly presentations that each of your experts has made. Provide the subject of the presentation, the group to which the presentation was made, and the title and subject of the presentation. Produce and separately identify all written materials from each such presentation.
- (g) Identify each matter in which the expert has testified or submitted pre-filed written testimony on any subject about which he intends to offer expert testimony in this case. For each matter, provide the name, docket number, forum, dates of testimony, whether the testimony was live or written, and the subjects on which the expert offered testimony in the case. Produce a copy of all such testimony (in electronic form if available).
- (h) Identify and produce any exhibits to be used in conjunction with each expert's testimony in this case; and
- (i) Produce each expert's entire file in this case, including all work papers, drafts, correspondence, spreadsheets, documents collected, summaries, charts, trade articles, journals, treatises, publications, file notes, chart notes, tests, test results, interview notes, and consultation notes provided to, reviewed by, utilized by, relied upon, created by, or produced by the expert witness in this matter. Where available, please provide working Excel files (or other data file types if applicable).

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request, including all sub-parts, on the grounds that it is overly broad, unduly burdensome, and beyond the scope of Tenn. R. Civ. P. 26.02. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

2. Produce copies of all hearing exhibits that you plan to introduce, use, or reference at the hearing on the merits in this docket.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. Furthermore, this request is premature as the Consumer Advocate has not yet prepared hearing exhibits.

4. Produce a copy of all hearing transcripts from, Docket 08-00039, In Re: Petition of Tennessee American Water Company, etc. Production in searchable electronic form is preferred if available.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. Furthermore, the information sought is available from public sources. The docket room of the Tennessee Regulatory Authority has the official record of Docket 08-00039, including transcripts, which with exceptions for proprietary purposes subject to a protective order, are publicly available to company.

6. In this case as in other past cases, the Consumer Advocate's witnesses offer forecasts of the utility's future revenue and costs. Has the Consumer Advocate or any of its analysts ever reviewed or studied the accuracy of their past forecasts or forecasting methodologies? If so, provide a reasonable description of the methodology employed in each such review or study, the results thereof, and produce any reports, spreadsheets, or other documents related thereto.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad, unduly burdensome and beyond the scope of Tenn. R. Civ. P. 26.02. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

7. Produce the final order(s) and any associated memorandum opinions in TRA Docket 96-00977.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is unduly burdensome and that the requested documents are publicly available from the Tennessee Regulatory Authority and/or public utility reporting services. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

8. Produce a copy of the incentive plan referenced on page 8, line 1 of the pre-filed testimony of CAPD witness Dave Peters.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is unduly burdensome and that the requested documents are publicly available

from the Tennessee Regulatory Authority. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

9. Produce all testimony (written or live) in TRA Docket 96-00977 that relates to the incentive plan referenced on page 8, line 1 of the pre-filed testimony of CAPD witness Dave Peters.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is unduly burdensome, beyond the scope of Tenn. R. Civ. P. 26.02, and that the requested documents are publicly available from the Tennessee Regulatory Authority. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents protected from disclosure by the attorney work product doctrine. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

11. List each case in which CAPD witness Terry Buckner has provided testimony (written or live) regarding a forecast of operating revenues for a company, by revenue class or in total. For each such case, provide the following information: utility name, docket number, the timeframe used to calculate the forecast, the operating revenue forecast recommended by Terry



Buckner; the utility's operating revenue forecast. You may limit your response to the time period since Terry Buckner has been employed by the Tennessee Public Service Commission.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

12. List each case in which CAPD witness Terry Buckner has provided testimony (written or live) regarding the cost of service for a company. For each such case, provide the following information: utility name, docket number, the cost of service recommended by Terry Buckner; the utility's requested cost of service. You may limit your response to the time period since Terry Buckner has been employed by the Tennessee Public Service Commission.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

13. List each case in which CAPD witness Terry Buckner has provided testimony (written or live) on subject matter other than operating revenue forecast or cost of service. For

each such case, provide the following information: utility name, docket number, the subject matter addressed by Terry Buckner. You may limit your response to the time period since Terry Buckner has been employed by the Tennessee Public Service Commission.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

16. Please provide a copy of all testimony (written or live) in TRA Docket 99-00994 that relates to pension contributions, pension funding, and/or pension expense recovery.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is unduly burdensome, beyond the scope of Tenn. R. Civ. P. 26.02 and that the requested documents are publicly available from the Tennessee Regulatory Authority. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents protected from disclosure by the attorney work product doctrine. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

18. Provide a listing of “prior TRA decisions” referred to on Page 12, line 1 in the pre-filed testimony of CAPD witness Dave Peters. For each, include the date, case style, docket number, and the date and title of the order or other pleading in which the decision is reflected in the record. Produce a copy of each such decision.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is unduly burdensome and that the requested documents are publicly available from the Tennessee Regulatory Authority and/or public utility reporting services. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

20. Identify each and every specific cost in the shared services division and in the KY/Mid-States division general office that the Consumer Advocate’s witnesses determined was not just, reasonable, and prudently incurred. For each such identified cost, please describe the basis for such determination.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

22. List each case in which Steve Brown has provided testimony (written or live) regarding cost of capital or rate of return. For each such case, provide the following information:

utility name; docket number; jurisdiction; short term debt cost recommended by Dr. Brown; long term debt cost recommended by Dr. Brown; equity cost of capital recommended by Dr. Brown; short term debt cost recommended by the utility's witness; long term debt cost recommended by the utility's witness; equity cost of capital recommended by the utility's witness. Aside from the request for case name, docket number, and jurisdiction (which should be provided for all cases in which Dr. Brown has provided testimony regarding cost of capital or rate of return), you may limit your response to the time period since Dr. Brown has been employed by the Consumer Advocate.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

23. In this case, Steve Brown relies upon the discounted cash flow (DCF) method to establish his recommended return on equity for Atmos, indicating that in his view the DCF method is superior to the capital asset pricing model (CAPM). For each other case in which Dr. Brown has offered testimony (written or live) regarding a utility's cost of equity or return on equity, provide the case name, docket number, and jurisdiction, and indicate the method by which Dr. Brown derived his opinion on the cost of equity and/or return on equity. If Dr. Brown utilized either the DCF and/or CAPM methods, please indicate which one he used as the basis for his opinion.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

24. List each undergraduate, graduate, or other academic course in which Steve Brown received education that tends to make Dr. Brown an expert regarding the cost of equity or return on equity for a utility. For each such course, provide the course title, the institution at which Dr. Brown took the course, the year(s), and the final grade that Dr. Brown received.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

25. List each case in which Steve Brown has provided testimony (written or live) regarding capital structure. For each such case, provide the following information: utility name; docket number; short term debt percentage recommended by Dr. Brown; long term debt percentage recommended by Dr. Brown; equity percentage recommended by Dr. Brown; short term debt percentage recommended by the utility's witness; long term debt percentage

recommended by the utility's witness; equity percentage recommended by the utility's witness. You may limit your response to the time period since Dr. Brown has been employed by the Consumer Advocate.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. In addition, much if not all of the information sought is available at the TRA. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

26. In this case, Dr. Brown indicates that his recommended capital structure is based upon the five year average capital structure of a group of "comparable companies." For each other case in which Dr. Brown has offered testimony (written or live) regarding capital structure, provide the case name and docket number and a description of the method by which Dr. Brown derived his recommended capital structure. If Dr. Brown derived his recommended capital structure by reference to a group of comparable companies, for each such case separately list the comparable companies utilized by Dr. Brown. You may limit your response to the time period since Dr. Brown has been employed by the Consumer Advocate.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not

in the custody or control of the Consumer Advocate. In addition, much if not all of the information sought is available at the TRA. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

27. List each undergraduate, graduate, or other academic course in which Steve Brown received education that tends to make Dr. Brown an expert on the appropriate capital structure for a utility. For each such course, provide the course title, the institution at which Dr. Brown took the course, the year(s), and the final grade that Dr. Brown received.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

29. Produce and separately identify all unaudited financial information that Steve Brown reviewed in connection with this case.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad, unduly burdensome and beyond the scope of Tenn. R. Civ. P. 26.02. Furthermore, the term “all unaudited information” is vague. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

34. Identify by the URL and produce a copy of each internet web page that Steve Brown reviewed in his work on this case, including those that he reviewed and ultimately decided not to utilize in support of his testimony.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad, unduly burdensome and beyond the scope of Tenn. R. Civ. P. 26.02. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

36. In his written direct testimony, Steve Brown quotes a number of people and/or organizations that are neither parties nor witnesses in this case. Separately for each, produce and separately identify the full source material from which the quoted portion was excerpted; and produce and separately identify all other statements by each such person and/or organization that Dr. Brown reviewed but did not quote in his direct testimony.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad, unduly burdensome and beyond the scope of Tenn. R. Civ. P. 26.02. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Furthermore, the information sought is publicly available. Subject to and without



waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

37. Has the University of Denver ever offered post-graduate degrees (i.e. masters or PhDs) in economics? Did the University of Denver offer such degrees when Dr. Brown studied there?

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. Furthermore, the information sought is available from other sources, namely the University of Denver. The Consumer Advocate further objects to this request to the extent it requires the production of information and documents that are not in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

38. In his work for the following entities (Tri-State Generation and Transmission Association, Arizona Electric Cooperative, Houston Lighting & Power, Iowa Utilities Board), did Steve Brown ever offer written or live testimony concerning a utility's cost of capital or capital structure? If so, identify each case in which he offered such testimony, and provide the case name, jurisdiction, utility involved, and the capital cost and capital structure that Dr. Brown recommended in his testimony.

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not

in the custody or control of the Consumer Advocate. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

40. Provide data on the percentage of revenues Energen, Equitable, ONEOK, Questar, and Equitable receive from the sale of oil. **Reference: Brown, p. 3, lines 18 – 20.**

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Furthermore, the information sought is available from other sources, namely the public financial information of the companies listed in the request. In addition, the request is overbroad as it does not have a specific time period of the information requested. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

43. Provide information on the percent of income Energen, Equitable, ONEOK, and Questar obtain from combined regulated natural gas distribution, regulated pipeline, and energy marketing segments. **Reference: Brown, p. 4, line 19 to p. 6, line 10.**

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Furthermore, the information sought is

available from other sources, namely the public financial information of the companies listed in the request. In addition, the request is overbroad as it does not have a specific time period of the information requested. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

45. Confirm that the January 16, 2009, issue of *The Value Line Investment Survey Selection & Opinion* indicates that the prime rate as of January 7, 2009, is 3.25 percent and that the prime rate as of October 8, 2008, was 4.50 percent. **Reference: Brown, p. 12.**

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. The Consumer Advocate further objects to this request to the extent it requests the production of information and documents that are not in the custody or control of the Consumer Advocate. Furthermore, the Consumer Advocate does not subscribe to any Value Line products. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

49. With reference to Dr. Brown's testimony at pp. 28 – 33, please provide the following information:


g. If (f.) cannot be confirmed, provide data in an Excel spreadsheet with formulae intact on the average capital structure for each of Dr. Brown's comparable companies at the end of each quarter for the most recent five year period.

**Reference: Brown, pp. 28 - 33.**

**OBJECTION:**

In addition to its general objections, the Consumer Advocate objects to this request on the grounds that it is overly broad and unduly burdensome. Furthermore, the information sought is available from other sources, namely the public financial information of the comparable companies referenced in the request. Subject to and without waiving its objections, the Consumer Advocate will attempt to identify and provide responsive information and documents that are reasonably available to the Consumer Advocate.

Respectfully Submitted,

By:   
\_\_\_\_\_  
Ryan L. McGehee  
Assistant Attorney General  
Office of the Tennessee Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207

**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 January, 2009.

A handwritten signature in black ink, appearing to read 'Ryan L. McGehee', written over a horizontal line.

Ryan L. McGehee