

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

<b>IN RE:</b>	)	
	)	
<b>ATMOS ENERGY CORPORATION</b>	)	<b>DOCKET NO. 08-00197</b>
<b>PETITION FOR ADJUSTMENT OF</b>	)	
<b>RATES</b>	)	

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**MOTION TO ASK ADDITIONAL DISCOVERY QUESTIONS IN EXCESS OF FORTY  
(40) QUESTIONS**

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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 TRA Rule 1220-1-2-.11(5)(a), hereby moves for leave to ask additional discovery questions in excess of forty (40) questions of Atmos Energy Corporation (“Atmos”).

For cause, Petitioner would show the following:

1. The process of utility rate-making is complex and involves numerous and often contested issues. *Tennessee Public Service Commission v. Nashville Gas Co.*, 551 S.W. 2d 315, 318 (Tenn.1977). This is a complex rate case in which Atmos is seeking to increase consumers’ natural gas utility bills by \$6.29 million annually.

2. The Consumer Advocate has a statutory right to investigate the reasonableness of Atmos’ request for \$6.29 million in new rates. Tenn. Code Ann. § 65-4-118. Furthermore, the first, and perhaps the most important, policy of discovery is that it should enable the parties and the court to seek the truth so that disputes will be decided by facts rather than legal maneuvering. *White v. Vanderbilt Univ.*, 21 S.W.3d 215, 223 (Tenn. Ct. App. 1999). Discovery should allow both the court and the parties to have an intelligent grasp of the issues to be litigated and

knowledge of the facts underlying them. *Vythoulkas v. Vanderbilt Univ. Hosp.*, 693 S.W.2d 350, 356 (Tenn. Ct. App. 1985).

3 As a matter of practice before the Authority in all major rate cases such as this one, the Authority has allowed the Consumer Advocate to ask more than forty (40) discovery questions. This is so because major rate cases require investigation and analysis of voluminous data regarding the revenues, expenses, taxes, rate base, capital requirements, and rate design of a large public utility, including certain transactions with affiliates, a task that could hardly be accomplished on forty (40) questions alone. For instance, in TRA Docket 08-00039, a recent major rate case decided by the Authority, the Consumer Advocate asked 234 discovery questions, including subparts. Moreover, in the last Atmos rate case, TRA Docket 07-00105, the Consumer Advocate asked 243 discovery questions, including subparts.

4. Consistent with the discovery principles and practice discussed above, the Consumer Advocate has drafted an initial round of discovery that is tailored to gathering necessary information for its evaluation of the subject matters pertinent to establishing just and reasonable rates in this case. The initial round of discovery – which is the only round of discovery prior to the filing of the Consumer Advocate’s direct testimony -- is essential for the Consumer Advocate to adequately and fully investigate the positions taken by Atmos in its petition and pre-filed testimony, as well as to formulate and present the Consumer Advocate’s own facts and opinions bearing on just and reasonable rates for Atmos’ customers.

5. In this case, Atmos submitted the pre-filed testimony of eight (8) witnesses in support of the proposed rate increase. These witnesses offer facts and opinions related to the following broad categories of subjects: (a) rate case drivers and the need for the requested rate increase; (b) operating revenues, including, but not confined to, weather normalization and

billing determinants such as customer growth rates and usage patterns; (c) operation and maintenance expense, including, but not confined to, payroll and benefits, uncollectible accounts expense, expenses allocated to Tennessee from affiliate companies or divisions, and various other expense categories; (d) depreciation expense; (e) taxes, including, but not confined to, federal and state income taxes, franchise taxes, property taxes, and gross receipts taxes; (f) rate base additions and deductions, including, but not confined to, utility plant in service, inventories and supplies, construction work in progress, working capital, accumulated depreciation, accumulated deferred income tax, and customer deposits; (g) capital budgets; (h) cost allocations and financial integrity of accounting systems; (i) cost of capital, including, but not confined to, cost of debt, return on equity, and capital structure; (j) calculation of the forecasted revenue deficiency; and (k) rate design.

6. Given the substantial amount of the requested rate increase, as well as the breadth of the various subject matters that must be investigated to determine whether Atmos' request is just and reasonable in light of attendant circumstances, the Consumer Advocate is unable to collect the necessary information to fully participate in this case on forty (40) discovery questions alone, especially since most of the information that is pertinent to conducting a thorough analysis of the merits of Atmos' petition is in the hands of Atmos itself (e.g., revenues, expenses, taxes, rate base, and cost of capital.)

7. The Consumer Advocate has reviewed the information Atmos submitted in this case pursuant to the Minimum Filing Requirements ("MFRs"). The Consumer Advocate has made every effort to harmonize its discovery requests with the MFRs to prevent duplicative requests.

8. Filed contemporaneously with this motion is the Consumer Advocate's First Discovery Request of the Consumer Advocate and Protection Division to Atmos Energy Corporation.

WHEREFORE, the Consumer Advocate requests the Hearing Officer to approve its motion to ask additional discovery questions in excess of forty (40) questions.

RESPECTFULLY SUBMITTED,

ROBERT E. COOPER, JR. (BPR #10934)  
Attorney General and Reporter  
State of Tennessee

*Timothy C. Phillips / by falling permission*  
TIMOTHY C. PHILLIPS (BPR #12751)  
Senior Counsel  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207  
(615) 741-3533

Dated: November 4, 2008.

CERTIFICATE OF SERVICE



I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

Patricia Childers  
Vice President  
Rates & Regulatory Affairs  
Mid-States Division  
Atmos Energy Corporation  
810 Crescent Centre Drive, Ste. 600  
Franklin, TN 37067-6226

William T. Ramsey, Esq.  
A. Scott Ross, Esq.  
Neal & Harwell, PLC  
2000 One Nashville Place  
150 Fourth Avenue North  
Nashville, TN 37219-2498

Douglas C. Walther  
Associate General Counsel  
Atmos Energy Corporation  
P.O. Box 650205  
Dallas, TX 75265-0205

This the 4<sup>th</sup> day of November, 2008.

  
TIMOTHY C. PHILLIPS  
  
Permission