

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 10, 2012

IN RE:

AUDIT OF ATMOS ENERGY
CORPORATION'S INCENTIVE PLAN
ACCOUNT FOR PERIOD OF APRIL 1, 2004
THROUGH MARCH 31, 2007

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DOCKET NO.
11-00195

ORDER

This matter came before the Tennessee Regulatory Authority (the "Authority" or "TRA") at a regularly scheduled Authority Conference held on June 7, 2012 for consideration of the audit of Atmos Energy Corporation's Incentive Plan Account for the period of April 1, 2004 through March 31, 2007 filed on November 10, 2011 ("Staff Audit Report").

PROCEDURAL BACKGROUND

Atmos Energy Corporation ("Atmos" or the "Company") originally filed a *Petition for Approval of Incentive Plan Account Reports for the Period of April 1, 2001 through March 31, 2011* on August 23, 2011, in TRA Docket No. 11-00137. In that Petition, Atmos argued that its Performance Based Ratemaking Mechanism ("PBRM") and Asset Management Agreement ("AMA") is like that of Piedmont Natural Gas ("Piedmont", "PNG" or "Nashville Gas") and that "Nashville Gas has recognized that asset management fees are in reality capacity release fees and should be included in the capacity release mechanism of the PBRM tariff."¹ Atmos pointed out that TRA Staff has had the same dispute regarding PNG's sharing provision as they have with Atmos. Atmos argued that while its Incentive Plan Account ("IPA") tariffs were suspended

¹ See *In re: Petition for Approval of Incentive Plan Account Reports for the Period April 1, 2001 through March 31, 2011*, Docket No. 11-00137, *Petition for Approval of Incentive Plan Account Reports for the Period April 1, 2001 through March 31, 2011*, p. 5 (August 23, 2011).

until resolution of this issue, the tariffs of PNG were allowed to become effective with PNG being allowed to include capacity release fees received from its asset manager in its IPA filings.

Atmos summed this up by stating:

the incentive plan accounts of PNG and Atmos both consist of two main parts, a gas procurement incentive mechanism and a capacity management incentive mechanism. Under the capacity management incentive mechanism, both companies have sought to include asset management fees, in recognition of the fact that such fees are payments for capacity release transactions that fall within the PBRM tariff provisions. For both companies, TRA Staff have objected to the inclusion of asset management fees. For both companies, the Authority has ordered that this issue be resolved in a separate docket. For PNG, it was Docket No. 05-00165. For Atmos, the issue remains pending in Docket 07-00225. In the meantime, pending resolution of the separate docket, PNG continued to file its annual incentive plan account reports and to include asset management fees in the incentive plan calculation. As to PNG, the Authority ruled that it could continue to include asset management fees in its IPA calculations and continue to recover under its incentive plan on that basis. The annual filing of Atmos Energy's IPA reports was deferred pending resolution of Docket No. 01-00704. Now that Docket 01-00704 has been resolved, and the company has filed its IPA Reports for the intervening years, Atmos merely seeks the same interim relief that was afforded to Nashville Gas.²

Because the issues asserted by Atmos in Docket No. 11-00137 did not have an impact on its Incentive Plan Account until 2004, Audit Staff decided to audit the IPA for distinct time periods. TRA Docket No. 11-00158 was opened to address the audit of Atmos Energy Corporation's IPA for the period of April 1, 2001 through March 31, 2004. Atmos then filed a request to consolidate Docket Nos. 11-00137 and 11-00158.³ Audit Staff filed a response on September 19, 2011, disputing certain assertions and requesting that the motion to consolidate be denied.⁴ On November 4, 2011, the parties in TRA Docket Nos. 11-00137 and 11-00158 filed a

² *Id.* at 7-8.

³ See *In re: Petition for Approval of Incentive Plan Account Reports for the Period April 1, 2001 through March 31, 2011*, Docket No. 11-00137, *Motion to Consolidate* (September 14, 2011) and *In re: Audit of Atmos Energy Corporation's ("ATMOS") Incentive Plan Account for Period of April 1, 2001 through March 31, 2004*, Docket No. 11-00158, *Motion to Consolidate* (September 14, 2011).

⁴ See *In re: Petition for Approval of Incentive Plan Account Reports for the Period April 1, 2001 through March 31, 2011*, Docket No. 11-00137, *Response of TRA Staff to Atmos Energy Corporation's Motion to Consolidate Dockets 11-00137 and 11-00158* (September 19, 2011) and *In re: Audit of Atmos Energy Corporation's ("ATMOS") Incentive Plan Account for Period of April 1, 2001 through March 31, 2004*, Docket No. 11-00158, *Response of TRA Staff to Atmos Energy Corporation's Motion to Consolidate Dockets 11-00137 and 11-00158* (September 19, 2011).

Stipulation Regarding Procedure. Under the stipulation, the parties agreed that the first three years of the outstanding audits would be addressed in TRA Docket No. 11-00158, with the remaining audit periods of March 2005 through March 31, 2011 to be addressed in separate dockets established at the time of the filing of the audit report for that particular period.⁵ The stipulation further stated that no party opposed the audit report in Docket No. 11-00158 for the period. Based upon the stipulation and assertion of the parties, the Authority adopted the audit report in Docket No. 11-00158 and directed Atmos to file tariffs to refund the undisputed credit balance in the IPA account.⁶ This action by the Authority closed TRA Docket Nos. 11-00137 and 11-00158. This docket, TRA Docket No. 11-00195, was opened to address the audit period of April 1, 2004 through March 31, 2007.⁷

On November 21, 2011, in accordance with the stipulation filed in Docket No. 11-00137 by Atmos, Audit Staff and the Consumer Advocate and Protection Division ("Consumer Advocate" or "CAPD"), the panel convened a contested case and appointed a Hearing Officer to prepare this docket for hearing.⁸ On November 22, 2011, Atmos, Audit Staff and the Consumer Advocate filed opening briefs. In addition to the brief, Audit Staff filed the affidavit of Pat Murphy and Atmos filed the Direct Testimony of Rebecca M. Buchanan. On March 14, 2012,

⁵ The stipulation agreed that Atmos, the Consumer Advocate and Audit Staff would be parties to subsequent filings and contested dockets related to this matter.

⁶ See *In re: Audit of Atmos Energy Corporation's ("ATMOS") Incentive Plan Account for Period of April 1, 2001 through March 31, 2004*, Docket No. 11-00158, *Order Adopting Incentive Plan Report of Tennessee Regulatory Authority's Utilities Division* (December 19, 2011).

⁷ TRA Docket No. 12-00053, *In Re: Audit of Atmos Energy Corporation's Incentive Plan Account for the Period April 1, 2007 through March 31, 2011*, was opened to address the audit period of April 1, 2007 through March 31, 2011. Atmos filed a tariff amendment in TRA Docket No. 11-00034, which clarified the Company's right to share asset management fees on a going-forward basis. See *In re: Petition for Approval of Contract Regarding Gas Commodity Requirements and Management of Transportation/Storage Contracts*, Docket No. 11-00034, *Order Approving Contract Regarding Gas Commodity Requirements and Management of Transportation/Storage Contracts* (February 24, 2012). The Authority granted approval of a new gas commodity and transportation and storage management contract (AMA) between Atmos and Atmos Energy Marketing LLC to begin on April 1, 2011. The Authority also approved a revised tariff, which added language to the PBRM rider clarifying the application of revenue derived from asset management agreements or other forms of compensation.

⁸ See *Order Convening a Contested Case Proceeding and Appointing a Hearing Officer* (December 19, 2011).

Atmos and Audit Staff filed reply briefs, and Atmos filed the Reply Testimony of Ms. Buchanan. On March 19, 2012, the parties filed a stipulation in this docket, subject to Authority approval, requesting the panel to consider the testimony as written, waiving cross-examination of the witnesses, and requesting that the Authority consider the matter on the briefs.⁹

STAFF AUDIT REPORT

On November 9, 2011, Audit Staff completed its audit of the IPA for the period of April 1, 2004 through March 31, 2007. The Staff Audit Report was filed on November 10, 2011, and contained two findings. Audit Finding #1 is that the Company overstated the amount available for sharing between Atmos and its ratepayers under the Capacity Release Incentive Mechanism. Therefore, the Company's share of savings was overstated by \$102,880. Audit Staff concluded that AMA lump sum up-front payments do not constitute capacity release payments subject to the sharing provisions in the PBRM tariff.¹⁰ Audit Finding #2 relates to the Audit Staff's conclusion that Atmos overstated its savings and concludes that, based on the overstatement, the amount of interest owed to consumers was understated in the amount \$14,306.32.

POSITIONS OF THE PARTIES

Atmos

Atmos' first argument is that the PBRM tariff recognizes up-front payments as payment for capacity release. On days when demand is below the peak day demand, there is a surplus of pipeline and/or storage capacity. Because there is greater economic value in bulk, Atmos realizes more dollars for ratepayers by releasing the capacity through an Asset Management Agreement rather than individual capacity releases. Atmos argues that the character of each transaction is the same (bulk and individual) therefore each is a capacity release transaction. The only reason Atmos aggregates the capacity is to receive the highest benefit to customers.¹¹

⁹ See *Stipulation Regarding Testimony and Request for Ruling on Briefs* (March 19, 2012).

¹⁰ Lump sum payments are made to Atmos by the Asset Manager for the right to manage Atmos' assets.

¹¹ *Atmos Energy Corporation's Opening Brief*, pp. 6-7 (February 22, 2012).

According to Atmos witness Rebecca Buchanan, Atmos contracts with the Asset Manager for capacity releases of daily transportation and storage capacity. The capacity outlined in the contract is then performed at the beginning of the contract term. Ms. Buchanan then states that the PBRM tariff only calls for the release of daily quantities; it does not require that Atmos must actually release every day.¹²

Atmos states it has always considered up-front payments to be covered by the PBRM tariff, and asserts that the new PBRM tariff approved in TRA Docket No. 11-00034, explicitly including up-front payments under the PBRM, was filed at the request of TRA. Atmos avers that this interpretation as filed in the amendment should be applied to prior years.¹³

Atmos references the tariffs and actions of PNG and Chattanooga Gas Company (“CGC”) as justification for its’ interpretation that up-front fees are to be shared pursuant to the PBRM tariff. Atmos asserts that both PNG and CGC tariffs do not expressly allow for the sharing of up-front fees yet these companies were allowed to share in these fees. Atmos states that, contrary to the TRA Staff’s recommendation, the Authority ordered a separate docket to be opened to determine if a tariff amendment for CGC was necessary and, in the interim, that CGC be allowed to share in these up-front payments. Atmos also asserts that PNG has been allowed to share in these up-front payments, even though its tariff makes no explicit reference to these payments, while the issue was being addressed in a separate docket.¹⁴

Atmos points out that PNG and Atmos have both amended their tariffs to include sharing of up-front fees under the capacity release program. PNG, however, was allowed to share in these payments prior to the tariff revision, while Atmos has been denied such treatment.¹⁵

¹² Rebecca M. Buchanan, Pre-filed Direct Testimony p. 8 (February 22, 2012).

¹³ *Atmos Energy Corporation’s Opening Brief*, pp. 2-9 (February 22, 2012).

¹⁴ *Id.* at 8-14.

¹⁵ *Id.* at 14 -15.

Atmos argues that any delay in the filing of its IPAs is no justification for denying the sharing of the up-front management fees. There are reasons for the delay, such as a prolonged docket (TRA Docket No. 01-00704) and a period of negotiations between the parties. Ultimately, Atmos proffers that the only party harmed by such delay is Atmos because customers have received 100% of the funds and Atmos seeks no recovery of interest on its share of the payments.¹⁶

Atmos asserts that Audit Staff made a mistake when they argue that the sharing percentages established in the initial PBRM tariff were based on gains attributable to capacity release at that time (which were 30-35%, versus the 83.6% gain under management of Atmos Energy Marketing (“AEM”). Atmos avers Audit Staff’s calculations failed to take into account the effect of the deadband, which, when considered, makes the average overall savings 37%.

Atmos has flowed through 100% of the up-front payments to customers in its annual ACA filings. If the Authority finds that these payments are not for capacity release, then there is no requirement that they be credited against gas costs in the ACA filings and Atmos would amend its ACA filings pursuant to TRA Rule 1220-4-7-.03(1)(c)(3) to remove these credits. The net effect would be for Atmos to recover 100% of these up-front fees.¹⁷ In the alternative, the fees would be shared on a 90/10 basis pursuant to the Capacity Assignment Credit Rider or the fees would be considered as “Other Private Contract” revenue and shared on a 50/50 basis.¹⁸

Audit Staff

Audit Staff notes that absent a contract, the tariff of the Company as filed and approved by the Authority controls the allowed actions by the Company.¹⁹ As a matter of law, an

¹⁶ *Id.* at 15-18.

¹⁷ *Id.* at 19.

¹⁸ Rebecca M. Buchanan, Pre-filed Reply Testimony, pp. 10-11 (March 14, 2012).

¹⁹ *Brief of TRA Audit Staff Asserting that Atmos’ PBRM Tariff/Capacity Release Incentive Mechanism Does Not Include Sharing of Fees from Asset Management Contracts with Third-Party Asset Managers*, pp. 33-36 (February 22, 2012).

effective tariff operates as a contract between the customer and the Company. Audit Staff maintains that the PBRM tariff is clear and concise and the absence of any reference to the sharing of fees from the Company for “selling its right to manage and release unutilized and underutilized capacity to another party is significant.”²⁰ To support its contention, Audit Staff reviewed the history of the PBRM tariff, noting that the fees for sharing in this docket are different than those considered when establishing the PBRM tariff. At the time the PBRM tariff was established, Atmos had a management contract with its affiliate, Woodward Marketing. The contract, however, was performed on a transaction basis, with Atmos retaining possession and control of all of its assets.²¹ This is quite different from the issue in this docket whereby Atmos releases possession and control of its assets. Additionally, Audit Staff reminds the Authority that the sharing percentages established in the initial PBRM tariff were based on gains attributable to capacity release at that time which were 30-35%, versus the 83.6% gain under the AEM contract, demonstrating that PBRM was not intended to include lump sum payments for transfer of ownership and control. Audit Staff notes that periodic review of the PBRM tariff was not required, but rather amendments would be considered if there were a change in conditions.²²

Audit Staff points to the Actual Cost Adjustment filings by Atmos for the years from 2004 through 2011. In these filings, Atmos demonstrates it has shared revenue from assets not included in the AEM agreement according to the PBRM tariff and 100% of the lump sum payments from the AEM contract have been flowed through to rate-payers.²³ Specifically, Audit Staff refers to *Atmos Energy Corporation's Verified Supplementation of the Record* in TRA Docket No. 05-00253. In this Supplementation Atmos draws attention to the fact that

²⁰ *Id.* at 39.

²¹ *Id.* at 40-41.

²² *Id.* at 42-43.

²³ *Id.* at 44-46.

“Atmos does not retain any portion of the lump sum payment. “...That \$500,000 payment is shared between Tennessee and Virginia ratepayers according to the percentage allocation for shared demand costs between the states.”²⁴

As an analogy to the issue in this case, Audit Staff refers to TRA Docket No. 01-00704 whereby the Authority upheld the finding of the Hearing Officer that the PBRM tariff did not include language specific to the sharing from transportation discounts. Further, the Authority found that it could not “contemplate the conditions necessary to consider an appropriate mechanism for savings” during the course of an audit.²⁵ The Authority made its decision based upon the language of the PBRM tariff not including savings from transportation discount contracts. This is similar to the issue in this docket, where the PBRM tariff does not include language regarding the “bulk sale of Atmos’ rights to manage and release its capacity contracts for a year, or multiple years, at a time, for an upfront lump-sum payment...”²⁶

Audit Staff references the establishment of *Affiliate Rules* by the Authority in 1999. During the establishment of these rules, TRA Staff recommended that “Atmos file all future proposed contracts relating to asset management and gas procurement for prior approval of the Authority, and that a separate docket be opened to consider and address whether fees derived from asset management contracts should be included under the PBRM and, if so, determine the appropriate sharing mechanism and sharing percentage of such fees.”²⁷ Subsequent to this recommendation, Atmos made a filing to amend its RFP procedures. The Authority, in TRA Docket No. 05-00253, approved inclusion of language relating to situations where Atmos may

²⁴ See *In re: Atmos Energy Corporation’s Annual Cost Adjustment (ACA) for the Twelve Months Ended June 30, 2005*, Docket No. 05-00253, *Atmos Energy Corporation’s Verified Supplementation of the Record*, p. 2 (April 12, 2007).

²⁵ *Brief of TRA Audit Staff Asserting that Atmos’ PBRM Tariff/Capacity Release Incentive Mechanism Does Not Include Sharing of Fees from Asset Management Contracts with Third-Party Asset Managers*, pp. 47-48 (February 22, 2012).

²⁶ *Id.* at 49.

²⁷ *Id.* at 50-51.

contract with an asset manager; this language however, does not include reference to sharing of fees received for such contracts.²⁸

Finally, Audit Staff refers to the argument of Atmos that it should be afforded the same treatment regarding the retention of discounts under the PBRM tariff. Audit Staff points out the specific differences between the PBRM tariff of CGC, PNG and Atmos and asserts that there is no reasonable basis to provide Atmos the requested relief. Audit Staff avers the two companies are not similarly situated regarding the origination of asset management fees and as such each should be treated independently according to its PBRM tariff.²⁹ Audit Staff admits that it erred in initially recommending approval of PNG's sharing of AMA fees, but objected once they became aware of the exact nature of the fees. Additionally, Audit Staff references the assertion of Atmos in its Opening Brief that the CGC tariff is "completely different." Audit Staff agrees that the two tariffs are different and in fact the CGC tariff specifically allows for the sharing of AMA fees.³⁰

Audit Staff counters the position of Atmos that, should the Authority disallow the AMA fees under the PBRM for sharing, it should be allowed to amend its PGA filings and retain 100% of these monies or that the AMA would qualify as a Capacity Assignment Credit being shared 90/10. Audit Staff does consider AMA fees to be for capacity release and subject to the PBRM. They do, however, point out that Atmos has flowed this up-front payment through the ACA filing as demonstrated in *Atmos Energy Corporation's Verified Supplementation of the Record* in TRA Docket No. 05-00253, with no expectation that any portion of the fees would revert back to stockholders.³¹

²⁸ *Id.*

²⁹ *Id.* at 56-58.

³⁰ *Reply Brief of TRA Audit Staff*, pp. 14-16 (March 14, 2012).

³¹ *Id.* at 23-24.

Audit Staff contends that, if the Authority allows Atmos to retain 10% of the AMA fees, the Company would be entitled to interest pursuant to its tariff. Audit Staff avers that the terms of its tariff cannot be waived or ignored and interest would need to be accrued and applied, since the Authority has no discretion when applying a tariff.³²

Consumer Advocate

The Consumer Advocate contends that the PBRM tariff of Atmos does “not expressly authorize the inclusion of fees paid by an asset manager; that the use of a third party asset manager precludes calculation of “savings” associated with the asset management fees; and the use of a third party asset manager does not provide the incentive to move beyond normal practices in exchange for the possibility of additional monetary reward.”³³

FINDINGS AND CONCLUSIONS

During the relevant audit period, the Authority did not address the disputed aspects of Atmos’ tariff. Instead, Atmos was involved in the Authority proceedings concerning the sharing of savings generated from negotiated discounts in transportation contracts in TRA Docket No. 01-00704³⁴ and did not file IPA reports during that period. However, during that same time period, the Authority was considering Nashville Gas Company's PBRM tariff. The original PBRM tariffs of Nashville Gas and Atmos were substantially similar. In both tariffs the capacity management incentive mechanism states that it is designed to encourage the company to “actively market off-peak, unutilized transportation and storage capacity on upstream pipelines in secondary markets.”³⁵ Both provide that “net incentive benefits” will be “shared between the Company's customers and the Company.”³⁶ Neither tariff specifically referenced asset

³² *Id.* at 22.

³³ *Consumer Advocate's Brief in Support of the TRA Staff's Compliance Audit Report*, p. 2 (February 22, 2012).

³⁴ *See In re: Audit of United Cities Gas Company, a Division of Atmos Energy Corporation, Incentive Plan Account (IPA) for the Period of April 1, 2000 through March 31, 2001*, Docket No. 01-00704 (August 9, 2001).

³⁵ *Atmos Energy Corporation's Opening Brief*, p. 11 (February 22, 2012).

³⁶ *Id.*

management agreements.

Audit Staff objected to the inclusion of asset management fees in the Nashville Gas Company's IPA in 2004; however, the Authority held on June 13th, 2005 that Nashville Gas could continue the sharing while it determined that matter, stating "the panel determined that it would be improper to disallow the inclusion of asset management fees in this IPA filing."³⁷ The issue was not finally determined until a Joint Settlement Agreement by the parties was approved in TRA Docket 05-00165 on October 22, 2007.³⁸ Thus, Nashville Gas, under its PBRM tariff, was allowed to share in these asset management fees during the period of time that the issue was pending before the Authority.

Under similar circumstances to the Nashville Gas docket, Audit Staff objected to the sharing of asset management fees by Atmos under its old PBRM tariff at the onset of the AMA and the plan year 2004.³⁹ However, Atmos made no IPA filings because of the prolonged litigation in Docket No. 01-00704.⁴⁰ Therefore, the matter of whether to allow inclusion of the asset management fees pending resolution of the issue was never addressed by the Authority.⁴¹

³⁷ See *In re: Audit of Nashville Gas Company's Incentive Plan Account for the Plan Year Ended June 30, 2004*, Docket No. 04-00290, *Order Adopting Incentive Plan Account Filing of Nashville Gas Company for Year Ended June 30, 2004*, p. 4 (September 6, 2005). The voting panel consisted of Directors Miller, Kyle and Jones.

³⁸ See *In re: Review of Nashville Gas Company's Incentive Plan Relating to Asset Management Fees*, Docket No. 05-00165, *Order Approving Settlement Agreement* (December 14, 2007). Under the settlement agreement, Nashville Gas filed a new tariff, with procedures for selection of an asset manager and an agreement for triennial reviews by an independent consultant.

³⁹ See *In re: Atmos Energy Corporation's Annual Cost Adjustment (ACA) for the Twelve Months Ended June 30, 2005*, Docket No. 05-00353, *Notice of Filing by the Utility Division of the Tennessee Regulatory Authority*, Exhibit A, p. 16 (April 21, 2006).

⁴⁰ See *In re: Audit of United Cities Gas Company, a Division of Atmos Energy Corporation, Incentive Plan Account (IPA) for the Period of April 1, 2000 through March 31, 2001*, TRA Docket No. 01-00704 (April 9, 2001). After much litigation, in 2006 the Hearing Officer determined in an *Initial Order* that transportation discounts were not included in the language or terms of the PBRM. The Hearing Officer also directed that the Company file its quarterly and annual PBR reports so that audits could be conducted for subsequent plan years, which at that time would have been for plan years ending March 31, 2002, 2003, 2004, 2005 and 2006. Atmos, however, appealed the *Initial Order* to the panel, which held that Atmos' PBRM tariff did not contain an incentive provision for sharing savings from transportation contracts. The panel's decision was made at an Authority Conference held on April 21, 2008. However, the panel reversed the Hearing Officer's decision on another issue in the docket, which was not finally resolved until an agreed order of dismissal was accepted by the Authority in August 2008. As a result of this litigation, the filing of Atmos' IPA reports was delayed.


⁴¹ Atmos did amend its PBRM tariff for RFP procedures for the selection of an asset manager, which was approved on June 25, 2007. See *In re: Atmos Energy Corporation's Annual Cost Adjustment (ACA) for the Twelve Months Ended June 30, 2005*, Docket No. 05-00253, *Order Approving Tariff* (December 6, 2007).

Because both tariffs were substantially similar and both companies were involved in similarly prolonged litigation during the same period, the panel determined it must treat both companies in a similar fashion, so that Atmos should receive the same interim relief and treatment afforded Nashville Gas Company in Docket No. 04-00290 for this audit period. Because Nashville Gas, under its PBRM tariff, was allowed to share in these asset management fees while the matter was pending, the panel concluded that Atmos should also be allowed to share for the time period the matter was pending. Therefore, the panel rejected the findings of the *Staff Audit Report* issued on November 10, 2011. Instead, the panel found that the up-front fees from the asset management agreement shall be shared between the Company and its customers on a 10 percent Company and a 90 percent customer basis for the audit period of April 1, 2004 through March 31, 2007. As a result, the panel determined that the Company should be allowed to retain the \$102,880 cited by Audit Staff as an over-recovery in Audit Finding No. 1. Because Audit Finding No. 2 is a recalculation of interest based upon Audit Finding No. 1, the panel determined that Audit Finding No. 2 should also be rejected.

IT IS THEREFORE ORDERED THAT:

1. The findings and recommendations contained in the *Audit of Atmos Energy Corporation's Incentive Plan Account for the Period of April 1, 2004 through March 31, 2007*, issued on November 10, 2011, are not approved.
2. Atmos Energy Corporation shall retain \$102,880 for its share of asset management payments for the audit period of April 1, 2004 through March 31, 2007.
3. Any party aggrieved by the decision of the Authority may file a Petition for Reconsideration with the Authority within fifteen (15) days of the entry of this Order.

4. Any party aggrieved by the decision of the Authority may file a Petition for Review with the Tennessee Court of Appeals, Middle Division, within sixty (60) days of the entry of this Order.



Kenneth C. Hill, Director



Sara Kyle, Director

Mary W. Freeman, Director⁴²

⁴² Director Mary W. Freeman voted in agreement with the other Directors but resigned her position with the Authority prior to the issuance of this Order.