

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

IN RE:)
)
PETITION OF ATMOS ENERGY)
CORPORATION FOR APPROVAL OF) **Docket No. 12-00064**
ADJUSTMENT OF ITS RATES AND)
REVISED TARIFF)

**FIRST DISCOVERY REQUESTS OF ATMOS ENERGY CORPORATION TO
CONSUMER ADVOCATE AND PROTECTION DIVISION**

TO: Office of the Attorney General
Consumer Advocate and Protection Division
c/o Ryan McGehee, Esq.
P. O. Box 20207
Nashville, TN 37202

These Discovery Requests are served pursuant to Rules 26, 33, 34 and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg. 1220-1-2-.11.

GENERAL REQUESTS

1. Produce any documents that have been identified in these responses, or upon which you relied in responding to these requests.

RESPONSE:

2. Provide computer files containing all documentation, workpapers, and calculations supporting the Consumer Advocate and Protection Division's ("CAPD") pre-filed testimony. The workpapers and calculations should be in Excel working format with numbers, formulas and linked files provided.

RESPONSE:

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

RESPONSE:

ATTRITION YEAR AND UPIS CALCULATION

4. Admit that, in the previous rate filing by Atmos (TRA Docket No. 08-00197), in the January 16, 2009 direct testimony of Dave Peters, the CAPD forecasted Plant in Service by using actual plant balance by Tennessee company, the Mid-States division, and the service areas as of September 30, 2008. Forecasted plant additions and retirements, which were provided by Atmos itself, were then added to actual balances at September 30, 2008, to arrive at monthly Plant in Service amounts through March 31, 2010. A thirteen month Plant in Service average was calculated for the Tennessee company, the Mid-States division, and the service areas for the attrition year Plant in Service amount of \$364,045,392.¹

RESPONSE:

5. Admit that, in the previous rate filing by Atmos (TRA Docket No. 08-00197), in the Order approving the Settlement Agreement, the attrition year Utility Plant in Service (“UPIS”) amount for Atmos was \$364,045,392.²

RESPONSE:

6. Admit that according to Piedmont Natural Gas Company’s previous rate filing, “the starting point for developing [their] rate base [was] the May 31, 2011 per books balances in Plant in Service, Construction Work in Progress, Accumulated Depreciation, and Accumulated Deferred Income Taxes (“ADIT”) applicable to Tennessee. [Piedmont] then added to these

¹ Docket 08-00197, Direct Testimony of Dave Peters, 1/16/09, pp. 15-16.

² Docket 08-00197, Order Approving Settlement Agreement, 4/07/09, Settlement Exhibit A, Schedule 2, Line 1.

balances the monthly construction budget projected additions and retirements for the remainder of fiscal years 2011 and 2012 and the projected 2013 fiscal year construction budget to project the balances for these items through February 28, 2013. A 13-month average was then calculated for the attrition period.”³

RESPONSE:

7. Admit that Piedmont’s Calculation of UPIS during the attrition year using their methodology was \$713,852,981.⁴

RESPONSE:

8. Admit that the CAPD’s Calculation of Piedmont’s UPIS for the attrition year was also \$713, 852,981.⁵

RESPONSE:

9. Admit that the Order approving the Settlement Agreement in the Piedmont case listed the attrition year UPIS amount as \$713,852,981.⁶

RESPONSE:

10. Admit that Capital Expenditures for Piedmont Natural Gas Company (“PNGC”) regarding their Transmission Integrity Management Program (“TIMP”) were included in their rate base calculations as they constituted attrition period (and pre-attrition period) capital expenditures that PNGC had budgeted as intending to place into service.⁷

RESPONSE:

³ Docket No. 11-00144, Direct Testimony of David R. Carpenter, 9/02/11, p. 8-9.

⁴ Docket No. 11-00144, Direct Testimony of Pia Powers, Exhibit (PKP-1) Schedule 3, Page 1, Line 17.

⁵ Docket No. 11-00144, Consumer Advocate Exhibit, Schedule 2, Line 1, 12/6/11. Listed within Direct Testimony of Dave Peters.

⁶ Docket No. 11-00144, Order Approving Settlement Agreement, Settlement Attachment A, Schedule 2, Line 1.

⁷ Docket No. 11-00144, Direct Testimony of Rodney Myers, 9/02/11, p. 3.

11. Admit that PNGC had budgeted \$32.9 million in capital expenditures during the attrition period for execution of projects related to TIMP.⁸

RESPONSE:

12. Admit that in TRA Docket No. 11-00144, the full amount of the projected TIMP capital expenditures of PNGC were included in Utility Plant in Service for Piedmont's attrition period rate base.⁹

RESPONSE:

13. Admit that in Docket No. 09-00183, Chattanooga Gas Company ("CGC") for their forecast of Utility Plant in Service and Construction Work in Progress, stated as follows: "The estimated average balance of utility plant in service for the attrition period of \$198,761,734 was calculated starting with the actual balance as of June 30, 2009. This balance was then projected through the end of the attrition period by adding estimated plant additions and subtracting estimated plant retirements. The additions for the month July 2009 through December 2009 are based on the Company's capital forecast for the remainder of 2009. Additions for January 2010 through December are based on the Company's preliminary budget for 2010. Additions for January 2011 through April 2011 are based on a forecast specifically prepared for this proceeding. . . ."¹⁰

RESPONSE:

14. Admit that in Docket No. 09-00183, "[t]he Consumer Advocate forecasted Plant in Service by using actual plant balances as of December 31, 2009. Forecasted plant additions and retirements, which were provided by CGC, were then added to actual balances at December

⁸ Docket No. 11-00144, Direct Testimony of Rodney Myers, 9/02/11, p. 4

⁹ Docket No. 11-00144, Order Approving Settlement Agreement, Settlement Attachment A, Schedule 2, Line 1.

¹⁰ Docket 09-00183, Direct Testimony of Ronald Hanson, 11/16/09, p. 24.

31, 2009 to arrive at monthly Plant in Service amounts through April 20, 2011. A thirteen month Plant in Service average was calculated in the amount of \$202,717,046. CGC has forecasted \$198,761,734 for Plant in Service.”¹¹

RESPONSE:

15. Admit that the Final Order for Docket No. 09-00183 states that “UPIS and CWIP [Construction Work in Progress] were calculated by both parties by taking the balance at December 31, 2009, adding budgeted plant additions and retirements by month including the allocated plant of 3.12% from the parent company through April 30, 2011. The Company and the Consumer Advocate both calculated the average projected thirteen months balance for the period ending April 11, 2011 to arrive at UPIS and CWIP for the attrition period. The Company and Consumer Advocate agreed upon a net amount of \$202,527,956 for UPIS and CWIP. The panel voted unanimously to adopt the agreed-upon UPIS and CWIP of \$202,527,956 for the attrition year ending April 30, 2011, based upon the determination of the booked amounts in this case and upon finding this amount is reasonable.”¹²

RESPONSE:

16. Admit that, in the most recent Tennessee American Water Company (“TAWC”) rate case, TAWC’s calculation of attrition year “UPIS includes the original cost of all land, land rights, easements, structures and improvements, together with equipment in service at December 31, 2011. The Utility Plant balance was calculated through November 30, 2013, by adding net additions and retirements through the end of the attrition period. The 13 month average of the

¹¹ Docket 09-00183, Direct Testimony of Terry Buckner, 3/10/10, p. 17.

¹² Docket 09-00183, Order, Tennessee Regulatory Authority, p. 34-35.

Utility Plant balances from November 1, 2012 through November 30, 2013 was calculated to arrive at the utility plant balance for the attrition period.”¹³

RESPONSE:

17. Admit that the Tennessee American Water Company’s Attrition year UPIS calculation was \$250,455,533.¹⁴

RESPONSE:

18. Admit that, in their settlement agreement, the CAPD and Tennessee American Water Company agreed on an attrition year UPIS settlement amount of \$250,455,533.¹⁵

RESPONSE:

19. Admit that, in this rate case with Atmos, by contrast, “[t]o compute attrition year Utility Plant in Service, the CAPD began with the test period balance for each of Atmos’s Tennessee allocated divisions and then increased this amount by the three year average of historical normal plant additions. [The Consumer Advocate] then added the CAPD adjusted attrition year special projects to this amount to get our forecast of the attrition year Utility Plant in Service.”¹⁶

RESPONSE:

20. Admit that the CAPD is calculating Attrition Year UPIS for Atmos in this filing in a different method than it utilized for Attrition Year UPIS for Atmos’s previous rate filing (Docket No. 08-00197).

RESPONSE:

¹³ Docket 12-00049, Direct Testimony of Linda Bridwell, 6/6/12, p. 39.

¹⁴ Docket No. 12-00049, Stipulation and Settlement Agreement, 10/1/12, Exhibit Schedule 3

¹⁵ Docket No. 12-00049, Stipulation and Settlement Agreement, 10/1/12, Exhibit Schedule 3

¹⁶ Docket No. 12-00064, Direct Testimony of Hal Novak, 10/5/12, p. 9.

21. Admit that the CAPD is calculating Attrition Year UPIS for Atmos in this filing in a different method than it utilized for Attrition Year UPIS for PNGC in Docket No. 11-00144.

RESPONSE:

22. Admit that the CAPD is calculating Attrition Year UPIS for Atmos in this filing in a different method than it utilized for Attrition Year UPIS for CGC in Docket No. 09-00183.

RESPONSE:

23. Admit that the CAPD accepted in settlement the UPIS amount calculated by TAWC, and this amount was calculated in a different method than the Consumer Advocate is utilizing for Atmos in this rate filing.

RESPONSE:

24. Admit that the CAPD excluded Atmos's proposed expedited replacement of bare steel and transmission main replacements on the ground that Atmos "has simply not done enough to justify the inclusion of these two Special Projects in the attrition period Utility Plant in Service."¹⁷

RESPONSE:

25. State whether the Consumer Advocate issued any data requests asking for information on the Company's proposed expedited replacement of bare steel and transmission main replacements.

RESPONSE:

26. Explain the criteria used by the CAPD to distinguish "justified" forecasted attrition year special projects from those for which the CAPD concluded that Atmos had not "done enough to justify inclusion."

¹⁷ Docket No. 12-00064, Direct Testimony of Hal Novak, 10/5/12, p. 10

RESPONSE:

27. Define “attrition year” in the context of a gas utility ratemaking proceeding before the Tennessee Regulatory Authority.

RESPONSE:

28. Is the attrition year forward looking?

RESPONSE:

29. Explain the purpose of including an attrition year in rate calculations.

RESPONSE:

30. Admit that CAPD witness Terry Buckner gave the following testimony in Docket 04-00034: “Based on my involvement in the past several TAWC rate cases, the CAPD has never opposed any infrastructure projects such as new pipes, replacing old pipes or similar infrastructure needed to provide water service. Based on my experience, I believe the CAPD has never opposed any such project for any public utility. To my knowledge, the financial impact of such projects has always been included in the calculation of base rates proposed by CAPD and/or authorized by the TRA.”

RESPONSE:

31. Admit that, in *South Central Bell Telephone Co. v. Tennessee Public Service Commission*, 579 S.W.2d 429 (TN. Ct. of App. 1979), the Court stated that the “estimated effect of reasonably expected increases in expenses and investment should be taken into consideration in the establishment of a rate structure in the future.”

RESPONSE:

32. Admit that, in *Re Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc.* (Docket No. 96-0097, 175 PUR4th 347, Tennessee Regulatory Authority,

2/19/97), the TRA stated that “[t]he purpose in the selection of a test period is to provide an indication of the rate of return that is likely to be produced under the existing rate structure in the reasonably foreseeable future after taking into consideration the estimated effect of reasonably expected revenues, expenses and investments.”

RESPONSE:

33. Admit that in Docket 04-00034, the Tennessee Regulatory Authority held as follows: “the purpose in the selection of a test period is to provide an indication of the rate of return that is likely to be produced under the existing rate structure in the reasonably foreseeable future. The test period takes into consideration the estimated effect of reasonably expected revenues, expenses and investments.”¹⁸

RESPONSE:

34. Admit that in *In re United Telephone – Southeast Inc.* (Docket Nos. 93-04818, 94-00388, 94-04818, 158 PUR4th 297, Tennessee Public Service Commission, 12/30/94), the Tennessee Public Service Commission held: “[i]f the Commission ignored the stipulated 1994 forecast, it is failing to take into account known and reasonably anticipated changes as required by Tennessee law,” *citing* *South Central Bell Telephone Co. v. Tennessee Public Service Commission*, 579 S.W.2d 429 (Tenn. Ct. of App. 1979).

RESPONSE:

35. Explain why CAPD witness Hal Novak’s testimony, regarding the utilization of attrition year forecasting departs from prior precedent and CAPD positions in the matters cited above in this section.

RESPONSE:

¹⁸ Docket 04-00034, Order, 10/20/04, P. 14.

WEATHER

36. Did the CAPD use original NOAA source documents to calculate Normal HDDs or did the CAPD use values provided by the TRA.

RESPONSE:

37. Admit that Atmos did not calculate the 30 year normal as indicated in Mr. Novak's testimony on page 5, lines 12 and 13, but rather used NOAA's published 30 year normal.

RESPONSE:

38. What position did the CAPD take in Docket 11-00144 (Piedmont Natural Gas) with regard to Piedmont's proposal to add October and April to the already established WNA calculation? Explain any difference between the CAPD's position in that case and the position it has taken with regard to this issue in this case.

RESPONSE:

39. Admit that in the Piedmont Natural Gas Case the CAPD and Piedmont stipulated (11-00144), page 6, (d) "[t]hat the period to which the WNA adjustment should apply going forward consists of the months of October through April of each year," and that this Stipulation was approved by the TRA in that case.

RESPONSE:

40. Admit that Atmos Energy Corporation's currently approved WNA tariff (Sheet No. 50) applies the WNA calculation to the months of November through April.

RESPONSE:

GROWTH

41. In testimony of Mr. Novak submitted by CAPD in this case, (Page 7, lines 11-19), Mr. Novak's description of the methodology used in calculating customer additions refers to a historical average of customer additions to normal plant additions. It appears in the Novak workpapers that the addition of the customers was based on the historical addition and not related to normal plant additions. Explain this discrepancy.

RESPONSE:

DECLINING USAGE

42. Did the CAPD calculate declining usage for any customer class? If so, explain all reasons for doing so, and provide all such calculations.

RESPONSE:

RATE DESIGN

43. Admit that paragraph 17 of the final Order in Docket 08-00197 states that the agreed upon rate increase will be allocated proportionately (proportionate to each class's contribution to revenue requirement for the test year ended Sep. 30, 2008) to the residential, commercial, industrial, public authority and transportation customer classes and agree to the rate structure set forth in Exhibit B.

RESPONSE:

44. Explain the CAPD's contention as to how an increase can and should be applied to special contract customers and how Atmos is expected to receive the revenue assigned to

customers who are “locked in to a rate.” (see Direct Testimony of Hal Novak, Page 17, lines 4-8).

RESPONSE:

45. Admit that in Exhibit B to the Order confirming the Stipulation for Docket No. 08-00197 none of the requested increase was allocated to special contract customers.

RESPONSE:

46. Admit that the CAPD’s position in Docket No. 08-00197 was that an appropriate mix between fixed customer charges and volumetric rates be achieved. (See the direct testimony of Terry Buckner, page 18, lines 4-5).

RESPONSE:

RATE BASE

47. Explain why Mr. Novak used three year averages in projecting some rate base items (Plant, Accumulated Depreciation) and four year averages for other items (CWIP, Operating Reserves).

RESPONSE:

48. Admit that accumulated deferred income tax related to accelerated depreciation represents a timing difference on the corporate books between utility book and tax income that will eventually turn around. If you deny this statement, explain in detail your contention as to what such accumulated deferred income tax represents. Include numeric examples.

RESPONSE:

49. FERC Account 108 includes Retirement Work in Progress ("RWIP"). State whether this portion of Account 108 should be included or excluded from rate base. If excluded, explain in detail the ratemaking theory used to justify its exclusion while CWIP is included.

RESPONSE:

50. Admit that Mr. Novak's proposed rate base excludes investment in RWIP from rate base. If you deny this statement, show in detail where and how it is included.

RESPONSE:

51. Admit that at the time of retirement of depreciable plant the cost of removal of the plant is debited to accumulated depreciation. If you deny this statement, explain in detail how your response is consistent with the uniform system of accounts.

RESPONSE:

52. Explain in detail why Mr. Novak's calculation of rate base treats cost of removal as crediting (increasing) accumulated depreciation rather than debiting (decreasing) accumulated depreciation.

RESPONSE:

53. Admit that the ongoing Customer Service System ("CSS") project is plant under construction that will be used and useful in the attrition year. If CAPD denies the truth of this statement, explain in detail the basis for your position and the data relied upon.

RESPONSE:

54. Admit that Mr. Novak's projected attrition year gross plant and accumulated depreciation balances do not reflect in any way investment in the ongoing CSS project or the projected retirement of the system it is replacing. If your response is anything other than an

unequivocal admission, show in detail how investment in the ongoing CSS project is included in Mr. Novak's projection of attrition year gross plant and accumulated depreciation.

RESPONSE:

55. Admit that Mr. Novak's adjustment from the actual March 2012 CWIP balance to his projected attrition year CWIP balance eliminates most of the investment in the ongoing CSS project. If you dispute this statement, show in detail how current and projected investment in the ongoing CSS project is included in Mr. Novak's attrition year CWIP balance and calculated how much of the investment is included.

RESPONSE:

56. Did Mr. Novak intend to exclude investment in the ongoing CSS project from rate base? If Mr. Novak did not intend to exclude it from rate base, state how he proposes to modify his rate base recommendation to include it in rate base.

RESPONSE:

INCENTIVE COMPENSATION

57. Identify the source(s) Mr. Buckner used to calculate the dis-allowance for incentive compensation for Divisions 2, 12, 91, and 93.

RESPONSE:

58. Admit that Mr. Buckner removed the entire amount of incentive compensation (expensed and capitalized amounts) from O&M.

RESPONSE:

59. Did Mr. Buckner intend to remove the entire amount of incentive compensation from O&M or did he intend to remove only the expensed amounts from O&M? If Mr. Buckner

intended to remove the entire amount of incentive compensation from O&M, explain why his methodology for removing incentive compensation from revenue requirement differs from that used by the CAPD witness in Atmos's previous three rate filings in Tennessee.

RESPONSE:

60. If any response to a Request for Admissions herein is anything other than an unqualified admission, explain the basis for the response, including all facts and information that are the basis for the answer and all individuals and documents that are the source for such facts and information.

RESPONSE:

NEAL & HARWELL, PLC

By: 

A. Scott Ross, #15634
2000 One Nashville Place
150 Fourth Avenue, North
Nashville, TN 37219-2498
(615) 244-1713 – Telephone
(615) 726-0573 – Facsimile

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 of record, this the 15th day of October 2012

- ☐ Hand
- ☐ Mail
- ☐ Fax
- ☒ Fed. Ex.
- ☒ E-Mail

Ryan McGehee, Esq.
Charlena Aumiller, Esq.
Office of the Attorney General
Consumer Advocate and Protection Division
425 Fifth Avenue, North, 3rd Floor
P. O. Box 20207
Nashville, TN 37202