

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
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REQUEST:

Refer to Page 11 of the direct testimony of Company Witness Story where she states the following:

"The Company continues to calculate income tax expense and record it to the books and records in accordance with GAAP, however at September 30, 2016, the Company refined the approach for allocating state income tax expense between the operating divisions included within Atmos Energy Corporation." [Emphasis added.]

In addition, refer to the Company's Response to CPAD DR 1-5(b) where it specifically describes the difference between these two methodologies for allocating state income tax expense to the different operating divisions.

Provide a side-by-side pro forma calculation of the two methodologies for allocating state income tax expense to Tennessee by month from October 1, 2015 through May 31, 2017 indicating which monthly amount was recognized on the Company's books.

RESPONSE:

At the Company's fiscal year end in September current state income tax expense is allocated to the various jurisdictions where the Company operates and pays taxes. This calculation is not performed in months other than September.

A high level description of the Company's method for allocating current state tax expense prior to September 30, 2016 was provided with the Company's response to CPAD DR No. 1-02, Attachment 1, in the email dated August 18, 2017.

A more detailed description outlining the Company's method prior to September 30, 2016 for allocating state tax expense is as follows:

The Company calculated current state tax liability for each state included within a particular business unit. The Kentucky Mid-States division is one such business unit. For the Kentucky Mid-States division, Tennessee, Virginia, Kansas and Kentucky current state tax liability was calculated and included in state income tax expense for the overall business unit. For purposes of this calculation, current state income tax expense was based on the separate or consolidated state tax return calculation for each of these states. In addition to current state income tax expense, deferred state income taxes were calculated and recorded to each operating division within the business unit.

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The combined total of all current and deferred state income taxes calculated, as described above, was applied to pre-tax book income for the Kentucky Mid-State business unit to arrive at a state income tax rate. This rate was then applied to pre-tax book income for each operating division, including Atmos Tennessee, included within the Kentucky Mid-States division.

Each operating division within the Kentucky Mid-States division received an equal proportion of state income taxes, resulting in identical state income tax rates for each operating division. Since deferred state income taxes were recorded directly to each operating division, current state income taxes were allocated in a manner that resulted in total state income taxes for each operating division being recorded at the same tax rate. It is for this reason that this allocation resulted in current state income taxes recorded to a particular operating division, such as Atmos Tennessee, that did not align with a separate state tax return for a particular state. However, the current state income taxes recorded in total for the Kentucky Mid-States division was based upon the separate and combined state tax return calculations for the states included within the business unit.

The Company did not allocate state income tax using the method described above for fiscal year end 9/30/16. Therefore no such calculation is available in response to this request.

At September 30, 2016 the Company refined the approach for allocating state income tax between the operating divisions. Please see Attachment 1, which details the allocation of state tax expense for the twelve month period ending September 30, 2016.

ATTACHMENT:

ATTACHMENT 1 - Atmos Energy Corporation, CPAD_4-17_Att1 - FY16 State Expense.xlsx, 2 Pages.

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Atmos Energy Corporation

Unit State Provision Report (Reporting)

FY16 Q4 Provision, AU050TN Mid States Division - Tennessee

	TOTAL	Division 093 Deferred State Tax	Division 093 Colorado	Division 093 Georgia	Division 093 Iowa	Division 093 Illinois	Division 093 Kansas	Division 093 Kentucky	Division 093 Louisiana	Division 093 Missouri	Division 093 Mississippi	Division 093 Tennessee	Division 093 Virginia	Division 093 West Virginia
Pre-Tax Book Income:		18,950,257	18,950,257	18,950,257	18,950,257	18,950,257	18,950,257	18,950,257	18,950,257	18,950,257	18,950,257	18,950,257	18,950,257	18,950,257
Book to Tax Adjustments		(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)	(20,368,087)
Allocable Income:		(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)	(1,417,830)
State Apportionment %:		0.00%	2.42%	0.00%	0.00%	0.06%	3.69%	5.88%	8.53%	0.00%	8.41%	5.09%	1.01%	0.36%
Apportioned Income:		0	(34,328)	0	0	(842)	(52,369)	(83,418)	(120,981)	0	(119,292)	(72,203)	(14,269)	(5,108)
State Tax Rate:		0.00%	4.63%	6.00%	12.00%	9.50%	7.00%	6.00%	8.00%	6.25%	5.00%	6.50%	6.00%	6.50%
Tax Before Credits:	(31,865)	0	(1,589)	0	0	(80)	(3,666)	(5,005)	(9,678)	0	(5,965)	(4,693)	(856)	(332)
State Net Operating Loss	453,065	0	0	0	0	0	0	0	0	0	0	453,065	0	0
State Net Operating Loss	453,065	0	0	0	0	0	0	0	0	0	0	453,065	0	0
Cash Tax Adjustments:	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Current State Tax Provision:	421,200	0	(1,589)	0	0	(80)	(3,666)	(5,005)	(9,678)	0	(5,965)	448,372	(856)	(332)
Total Deferred Tax Provision:	(104,829)	565,624	0	0	0	0	0	0	0	0	0	(670,453)	0	0
Total State Tax Provision:	316,371	565,624	(1,589)	0	0	(80)	(3,666)	(5,005)	(9,678)	0	(5,965)	(222,081)	(856)	(332)

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Atmos Energy Corporation

SubConsolidated Unit State Provision Report (Reporting)

FY16 Q4 Provision, 02 AUT

	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation	Atmos Energy Corporation
	Deferred State	Colorado	Georgia	Iowa	Illinois	Kansas	Kentucky	Louisiana	Missouri	Mississippi	Tennessee	Texas	Virginia	West Virginia
Pre-Tax Book Income:	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352	521,812,352
Book to Tax Adjustments	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)	(925,941,794)
Allocable Income:	(404,129,442)	(404,129,442)	(404,129,442)	(404,129,442)	(404,129,442)	(404,129,442)	(404,129,442)	(404,129,442)	(404,129,442)	(404,129,442)	(404,129,442)	(593,188,342)	(404,129,442)	(404,129,442)
State Apportionment %:	0.00%	2.42%	0.00%	0.00%	0.06%	3.69%	5.88%	8.53%	0.00%	8.41%	5.09%	0.00%	1.01%	0.36%
Apportioned Income:	0	(9,784,782)	0	0	(240,053)	(14,926,925)	(23,776,956)	(34,483,557)	0	(34,002,239)	(20,580,292)	0	(4,067,159)	(1,456,078)
State Tax Rate:	0.00%	4.63%	0.00%	0.00%	9.50%	7.00%	6.00%	8.00%	0.00%	5.00%	6.50%	0.00%	6.00%	6.50%
Tax Before Credits:	(9,082,533)	0	(453,035)	0	0	(22,805)	(1,044,885)	(1,426,617)	(2,758,685)	0	(1,700,112)	(1,337,719)	0	(244,030)
After Tax State Temp Diff:														
State Net Operating Loss	5,548,625	0	408,827	0	0	0	942,923	379,300	2,758,685	0	575,802	453,065	(52,627)	82,650
State Bonus Depreciation	3,113,791	0	0	0	0	0	0	943,447	0	0	1,124,310	884,654	0	161,380
Total After Tax State Temp Diff:	8,662,416	0	408,827	0	0	0	942,923	1,322,747	2,758,685	0	1,700,112	1,337,719	(52,627)	244,030
Texas Margin Tax	2,794,389	0	0	0	0	0	0	0	0	0	0	0	2,794,389	0
Return Basis Provision:	2,374,272	0	(44,208)	0	0	(22,805)	(101,962)	(103,870)	0	0	0	0	2,741,762	0
Non-Cash Tax Adjustments:														
NC_AMEND_STATE: Amended Return (State)	(296,163)	0	0	0	0	0	0	0	0	0	0	0	(296,163)	0
NC_FIN48_STATE: FIN 48 Expense (State)	1,540,348	0	0	0	0	0	0	0	0	0	0	0	1,540,348	0
NC_RTP_STATE: NC RTP STATE	322,784	0	0	0	0	0	0	60,611	0	0	0	0	262,173	0
Total Non-Cash Tax Adjustments:	1,566,969	0	0	0	0	0	0	60,611	0	0	0	0	1,506,358	0
Current State Tax Provision:	3,941,241	0	(44,208)	0	0	(22,805)	(101,962)	(43,259)	0	0	0	0	4,248,120	0
Total Deferred Tax Provision:	12,284,943	24,382,231	(1,485,074)	0	0	0	(842,461)	(2,092,423)	(3,251,281)	0	(2,274,360)	(1,870,125)	52,626	(334,190)
Total State Tax Provision:	16,226,184	24,382,231	(1,529,282)	0	0	(22,805)	(944,423)	(2,135,682)	(3,251,281)	0	(2,274,360)	(1,870,125)	4,300,746	(334,190)

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REQUEST:

Explain in greater detail and with specificity the assignment/allocation of state tax expense to each state jurisdiction, and the underlying rationale supporting this methodology relative to other assignment methodologies, such as direct assignment. Provide the underlying workpapers used to make such allocations of state tax expense for the twelve month period ending September, 2016.

RESPONSE:

For a complete description of how the Company allocates state tax expense to each state jurisdiction, please see Ms. Story's Direct Testimony, page 7, lines 20-23, page 8, lines 1-11 and lines 22-23, and page 9 lines 1-8. For a description of the rationale supporting this methodology, please see Ms. Story's Direct Testimony pages 9, lines 13-23 and page 10, lines 1-4. As described in Ms. Story's testimony, the Company believes that the accrual of tax should match the underlying calculation for tax return reporting requirements. No comparative analysis of other methodologies has been prepared. See Attachment 1 to the Company's response to CPAD DR No. 4-17 for the workpaper used to allocate state tax expense for the twelve month period ending September 30, 2016.

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REQUEST:

When computing the pro-forma tax expense, did Company witness Story include a proforma increase in the ADITL to reflect the going forward level of deferred taxes that match the deferred tax expense adjustment? If such an adjustment is inappropriate or in conflict with normalization requirements, provide the supporting argument. If not, explain why such an adjustment is not necessary to properly match deferred income tax expense with the liability.

RESPONSE:

The Company calculates and records ADIT at the end of each quarter. At non-year end quarters, the increase or decrease to ADIT is recorded to the general office of each business unit. For the Kentucky Mid-States division, this entry is recorded to division 091. In this filing, Atmos Tennessee received an allocated portion of the division 091 balances for the test year. Therefore, no adjustment is necessary.

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REQUEST:

The Company's Response to CPAD 2-11(d) indicates that the NOL allocation approach has been approved and adopted by all of the jurisdictions in which the Company has regulated operations. Provide a copy of all written testimony or regulatory orders in which the issue of NOL allocation has been specifically endorsed in lieu of determining the NOL based upon the actual tax loss calculated for a specific state.

RESPONSE:

While not speaking specifically on NOL allocation, the Company's approved Revenue Requirement in each jurisdiction includes the underlying ADIT/NOL calculation included in this filing. This calculation has been approved by each jurisdiction in which the Company operates, including Tennessee.

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REQUEST:

Refer to CPAD Informal DR 1-02. Confirm that the current portion of state tax expense is not based upon the separate state tax return for that particular state.

RESPONSE:

Confirmed. In the context of the communication referenced in CPAD Informal DR No. 1-02, the current portion of state tax expense was not based solely upon the separate state tax return for that particular state. For a particular operating division, such as Atmos Tennessee, the current portion of state tax expense was based upon the liability the Company expected to incur as a result of earnings for the period, adjusted for deferred tax expense. Please see the Company's response to CPAD DR No. 4-17 for an explanation of the current state income tax expense recorded to Atmos Tennessee prior to September 30, 2016.

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REQUEST:

Refer to the Company's Response to CPAD DR 1-03(g). State any **change in or amendment** to any federal, state, or local law, ordinance, or regulation that requires or otherwise makes necessary the change in recognizing income tax expense and state tax expense proposed by Atmos in the Annual ARM Reconciliation Filing. If there has been no such change in or amendment to any such federal, state, or local law, ordinance, or regulation, state that there has been no change that requires or otherwise makes necessary the change in recognizing income tax expense and state tax expense proposed by Atmos in the Annual ARM Reconciliation Filing.

RESPONSE:

There has been no change in or amendment to any federal, state, or local law, ordinance, or regulation that makes necessary the change in recognizing income tax expense and state tax expense proposed by Atmos Energy in the Annual ARM Reconciliation Filing. While the normalization requirements discussed in the Company's response to CPAD DR No. 1-03(g) have been in existence for many years, a Safe Harbor Revenue Procedure addressing inadvertent normalization violations was issued on September 17, 2017. This Revenue Procedure was discussed in the Company's response to CPAD DR No. 1-03(g). The Company has followed the procedures outlined in Revenue Procedure 2017-47 in this filing to ensure compliance with the normalization provisions of the Internal Revenue Code.

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REQUEST:

State every federal, state, or local law, ordinance, or regulation that requires or otherwise makes necessary the change in recognizing income tax expense and state tax expense proposed by Atmos in the Annual ARM Reconciliation Filing. If there is no such federal, state, or local law, ordinance, or regulation, state that there is no such federal, state, or local law, ordinance, or regulation that requires or otherwise makes necessary the change in recognizing income tax expense and state tax expense proposed by Atmos in the Annual ARM Reconciliation Filing.

RESPONSE:

Please see the Company's response to CPAD DR No. 4-42.

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REQUEST:

Refer to the Company Response to CPAD DR 1-03(g). Define fully and with specificity the term "normalization violation" as used by the Company in the context of the violation suggested by the Company's response and provide a copy of any source material supporting the Company's definition, including without limitation the applicable part(s) of the Internal Revenue Code and Regulations, revenue rulings, private letter rulings, treatises, articles, or similar documents: .

RESPONSE:

The Internal Revenue Code requires that the deferral of tax associated with tax depreciation be normalized. The IRC and related regulations provide consequences to those utilities and commissions that do not normalize certain tax benefits. These consequences are severe. They are so severe in fact that the mere threat of them has the effect of "requiring" compliance.

As defined under Treas. Reg. §1.167(l)-1(h), in order to use a normalization method of accounting, the public utility must use the "same method" of depreciation to compute both its tax expense and its depreciation expense for purposes of establishing its cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account. Further, if in computing its allowance for tax depreciation for purpose of filing its tax returns, it uses a method other than that used for establishing its cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account, the utility must make adjustments to an accumulated deferred federal income tax reserve to reflect the deferral of taxes resulting from the use of the different methods of depreciation. (Treas. Reg. §1.167(l)-1(h)(1)(i)(a) and (b)).

The established reserve must be used in ratemaking proceedings to reduce the utility's rate base upon which the rate of return is applied. A taxpayer DOES NOT use a normalization method if, for ratemaking purposes, the amount of the accumulated deferred federal income tax reserve which is excluded from rate base exceeds the amount in the reserve for deferred taxes for the period used in determining the taxpayer's cost of service. (Treas. Reg. §1.167(l)-1(h)(6)(i))

If a utility believes its method of accounting is not a normalized method or is compelled by a regulatory body to adopt a method which is not normalized, the utility must notify the Service's District Director within 90 days and file amended returns which recompute its tax liability for any affected taxable years. Prospectively, the utility would lose the ability to claim accelerated tax depreciation on future tax returns. (Treas. Reg. §1.167(l)-1(h)(5))

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Please see Attachment 1.

ATTACHMENT:

ATTACHMENT 1 - Atmos Energy Corporation, CPAD_4-44_Att1 - Treas Reg 1.167.pdf, 23 Pages.

(Reg Caution) Reg §1.167(l)-1 Limitations on reasonable allowance in case of property of certain public utilities.

Income (USTR)

Federal Regulations

Reg § 1.167(l)-1. Limitations on reasonable allowance in case of property of certain public utilities.

Caution: The Treasury has not yet amended Reg § 1.167(l)-1 to reflect changes made by P.L. 101-508



Effective: Reg. [§1.167\(l\)-1](#) has not been updated to reflect subsequent legislation.

(a) In general.

(1) *Scope.* Section 167(l) in general provides limitations on the use of certain methods of computing a reasonable allowance for depreciation under section 167(a) with respect to "public utility property" (see paragraph (b) of this section) for all taxable years for which a Federal income tax return was not filed before August 1, 1969. The limitations are set forth in paragraph (c) of this section for "pre-1970 public utility property" and in paragraph (d) of this section for "post-1969 public utility property." Under section 167(l), a taxpayer may always use a straight line method (or other "subsection (l) method" as defined in paragraph (f) of this section). In general, the use of a method of depreciation other than a subsection (l) method is not prohibited by section 167(1) for any taxpayer if the taxpayer uses a "normalization method of regulated accounting" (described in paragraph (h) of this section). In certain cases, the use of a method of depreciation other than a subsection (l) method is not prohibited by section 167(l) if the taxpayer used a "flow-through method of regulated accounting" described in paragraph (i) of this section) for its "July 1969 regulated accounting period" (described in paragraph (g) of this section) whether or not the taxpayer uses either a normalization or a flow-through method of regulated accounting after its July 1969 regulated accounting period. However, in no event may a method of depreciation other than a subsection (l) method be used in the case of pre-1970 public utility property unless such method of depreciation is the "applicable 1968 method" (within the meaning of paragraph (e) of this section). The normalization requirements of section 167(l) with respect to public utility property defined in section 167(l)(3)(A) pertain only to the deferral of Federal income tax liability resulting from the use of an accelerated method of depreciation for computing the allowance for depreciation under section 167 and the use of straight line depreciation for computing tax expense and depreciation expense for purposes of establishing cost of services and for reflecting operating results in regulated books of account. Regulations under section 167(l) do not pertain to other book-tax timing differences with respect to State income taxes, F.I.C.A. taxes, construction

costs, or any other taxes and items. The rules provided in paragraph (h)(6) of this section are to insure that the same time period is used to determine the deferred tax reserve amount resulting from the use of an accelerated method of depreciation for cost of service purposes and the reserve amount that may be excluded from the rate base or included in no-cost capital in determining such cost of services. The formula provided in paragraph (h)(6)(ii) of this section is to be used in conjunction with the method of accounting for the reserve for deferred taxes (otherwise proper under paragraph (h)(2) of this section) in accordance with the accounting requirements prescribed or approved, if applicable, by the regulatory body having jurisdiction over the taxpayer's regulated books of account. The formula provides a method to determine the period of time during which the taxpayer will be treated as having received amounts credited or charged to the reserve account so that the disallowance of earnings with respect to such amounts through rate base exclusion or treatment as no-cost capital will take into account the factor of time for which such amounts are held by the taxpayer. The formula serves to limit the amount of such disallowance.

(2) Methods of depreciation. For purposes of section 167(l), in the case of a declining balance method each different uniform rate applied to the unrecovered cost or other basis of the property is a different method of depreciation. For purposes of section 167(l), a change in a uniform rate of depreciation due to a change in the useful life of the property or a change in the taxpayer's unrecovered cost or other basis for the property is not a change in the method of depreciation. The use of "guideline lives" or "class lives" for Federal income tax purposes and different lives on the taxpayer's regulated books of account is generally not treated for purposes of section 167(l) as a different method of depreciation. Further, the use of an unrecovered cost or other basis or salvage value for Federal income tax purposes different from the basis or salvage value used on the taxpayer's regulated books of account is not treated as a different method of depreciation.

(3) Application of certain other provisions to public utility property. For rules with respect to application of the investment credit to public utility property, see section 46(e). For rules with respect to the application of the class life asset depreciation range system, including the treatment of the use of "class lives" for Federal income tax purposes and different lives on the taxpayer's regulated books of account, see §1.167(a)-11 and § 1.167(a)-12.

(4) Effect on agreements under section 167(d). If the taxpayer has entered into an agreement under section 167(d) as to any public utility property and such agreement requires the use of a method of depreciation prohibited by section 167(l), such agreement shall terminate as to such property. The termination, in accordance with this subparagraph, shall not affect any other property (whether or not public utility property) covered by the agreement.

(5) Effect of change in method of depreciation. If, because the method of depreciation used by the taxpayer with respect to public utility property is prohibited by section 167(l), the taxpayer changes to a method of depreciation not prohibited by section 167(l), then when the change is made the

unrecovered cost or other basis shall be recovered through annual allowances over the estimated remaining useful life determined in accordance with the circumstances existing at that time.

(b) Public utility property.

(1) *In general.* Under section 167(1)(3)(A), property is "public utility property" during any period in which it is used predominantly in a "section 167(l) public utility activity." The term "section 167(l) public utility activity" means the trade or business of the furnishing or sale of-

(i) Electrical energy, water, or sewage disposal services,

(ii) Gas or steam through a local distribution system,

(iii) Telephone services,

(iv) Other communication services (whether or not telephone services) if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701), or

(v) Transportation of gas or steam by pipeline,

if the rates for such furnishing or sale, as the case may be, are regulated, i.e., have been established or approved by a regulatory body described in section 167(l)(3)(A). The term "regulatory body described in section 167(l)(3)(A)" means a State (including the District of Columbia) or political subdivision thereof, any agency or instrumentality of the United States, or a public service or public utility commission or other body of any State or political subdivision thereof similar to such a commission. The term "established or approved" includes the filing of a schedule of rates with a regulatory body which has the power to approve such rates, even though such body has taken no action on the filed schedule or generally leaves undisturbed rates filed by the taxpayer involved.

(2) *Classification of property.* If property is not used solely in a section 167(l) public utility activity, such property shall be public utility property if its predominant use is in a section 167(l) public utility activity. The predominant use of property for any period shall be determined by reference to the proper accounts to which expenditures for such property are chargeable under the system of regulated accounts required to be used for the period for which the determination is made and in accordance with the principles of §1.46-3(g)(4) (relating to credit for investment in certain depreciable property). Thus, for example, for purposes of determining whether property is used predominantly in the trade or business of the furnishing or sale of transportation of gas by pipeline, or furnishing or sale of gas through a local distribution system, or both, the rules prescribed in §1.46-3(g)(4) apply, except that

accounts 365 through 371, inclusive (Transmission Plant), shall be added to the accounts enumerated in subdivision (i) of such paragraph (g)(4).

(c) Pre-1970 public utility property.

(1) Definition.

(i) Under section 167(l)(3)(B), the term "pre-1970 public utility property" means property which was public utility property at any time before January 1, 1970. If a taxpayer acquires pre-1970 public utility property, such property shall be pre-1970 public utility property in the hands of the taxpayer even though such property may have been acquired by the taxpayer in an arm's-length cash sale at fair market value or in a tax-free exchange. Thus, for example, if corporation X which is a member of the same controlled group of corporations (within the meaning of section 1563(a)) as corporation Y sells pre-1970 public utility property to Y, such property is pre-1970 public utility property in the hands of Y. The result would be the same if X and Y were not members of the same controlled group of corporations.

(ii) If the basis of public utility property acquired by the taxpayer in a transaction is determined in whole or in part by reference to the basis of any of the taxpayer's pre-1970 public utility property by reason of the application of any provision of the code, and if immediately after the transaction the adjusted basis of the property acquired is less than 200 percent of the adjusted basis of such pre-1970 public utility property immediately before the transaction, the property acquired is pre-1970 public utility property.

(2) Methods of depreciation not prohibited. Under section 167(l)(1), in the case of pre-1970 public utility property, the term "reasonable allowance" as used in section 167(a) means, for a taxable year for which a Federal income tax return was not filed before August 1, 1969, and in which such property is public utility property, an allowance (allowable without regard to section 167(l)) computed under-

(i) A subsection (l) method, or

(ii) The applicable 1968 method (other than a subsection (l) method) used by the taxpayer for such property, but only if-

(a) The taxpayer uses in respect of such taxable year a normalization method of regulated accounting for such property,

(b) The taxpayer used a flow-through method of regulated accounting for such property for its July 1969 regulated accounting period, or

(c) The taxpayer's first regulated accounting period with respect to such property is after the taxpayer's July 1969 regulated accounting period and the taxpayer used a flow-through method of regulated accounting for its July 1969 regulated accounting period for public utility property of the same kind (or if there is no property of the same kind, property of the most similar kind) most recently placed in service. See paragraph (e)(5) of this section for determination of same (or similar) kind.

(3) Flow-through method of regulated accounting in certain cases. See paragraph (e)(6) of this section for treatment of certain taxpayers with pending applications for change in method of accounting as being deemed to have used a flow-through method of regulated accounting for the July 1969 regulated accounting period.

(4) Examples. The provisions of this paragraph may be illustrated by the following examples:

Example (1). Corporation X, a calendar-year taxpayer subject to the jurisdiction of a regulatory body described in section 167(l)(3)(A), used the straight line method of depreciation (a subsection (l) method) for all of its public utility property for which depreciation was allowable on its Federal income tax return for 1967 (the latest taxable year for which X, prior to August 1, 1969, filed a return). Assume that under paragraph (e) of this section, X's applicable 1968 method is a subsection (l) method with respect to all of its public utility property. Thus, with respect to its pre-1970 public utility property, X may only use a straight line method (or any other subsection (l) method) of depreciation for all taxable years after 1967.

Example (2). Corporation Y, a calendar-year taxpayer subject to the jurisdiction of the Federal Power Commission, is engaged exclusively in the transportation of gas by pipeline. On its Federal income tax return for 1967 (the latest taxable year for which Y, prior to August 1, 1969, filed a return), Y used the declining balance method of depreciation using a rate of 150 percent of the straight-line rate for all of its nonsection 1250 public utility property with respect to which depreciation was allowable. Assume that with respect to all of such property, Y's applicable 1968 method under paragraph (e) of this section is such 150 percent declining balance method. Assume that Y used a normalization method of regulated accounting for all relevant regulated accounting periods. If Y continues to use a normalization method of regulated accounting, Y may compute its reasonable allowance for purposes of section 167(a) using such 150 percent declining balance method for its nonsection 1250 pre-1970 public utility property for all taxable years beginning with 1968, provided the use of such method is allowable without regard to section 167(l). Y may also use a subsection (l) method for any of such pre-1970 public utility property for all taxable years beginning after 1967. However, because each different uniform rate applied to the basis of the property is a different method of depreciation, Y may not use a declining balance method of depreciation using a rate of twice the straight line rate for any of such pre-1970 public utility property for any taxable year beginning after 1967.

Example (3). Assume the same facts as in example (2) except that with respect to all of its nonsection 1250 pre-1970 public utility property accounted for in its July 1969 regulated accounting period Y used a flow-through method of regulated accounting for such period. Assume further that such property is the property on the basis of which the applicable 1968 method is established for pre-1970 public utility property of the same kind, but having a first regulated accounting period after the taxpayer's July 1969 regulated accounting period. Beginning with 1968, with respect to such property Y may compute its reasonable allowance for purposes of section 167(a) using the declining balance method of depreciation and a rate of 150 percent of the straight line rate, whether it uses a normalization or flow-through method of regulated accounting after its July 1969 regulated accounting period, provided the use of such method is allowable without regard to section 167(l).

(d) Post-1969 public utility property.

(1) In general. Under section 167(l)(3)(C), the term "post-1969 public utility property" means any public utility property which is not pre-1970 public utility property.

(2) Methods of depreciation not prohibited. Under section 167(l)(2), in the case of post-1969 public utility property, the term "reasonable allowance" as used in section 167(a) means, for a taxable year, an allowance (allowable without regard to section 167(l)) computed under-

(i) A subsection (l) method,

(ii) A method of depreciation otherwise allowable under section 167 if, with respect to the property, the taxpayer uses in respect of such taxable year a normalization method of regulated accounting, or

(iii) The taxpayer's applicable 1968 method (other than a subsection (l) method) with respect to the property in question, if the taxpayer used a flow-through method of regulated accounting for its July 1969 regulated accounting period for the property of the same (or similar) kind most recently placed in service, provided that the property in question is not property to which an election under section 167(l)(4)(A) applies. See §1.167(l)-2 for rules with respect to an election under section 167(l)(4)(A). See paragraph (e)(5) of this section for definition of same (or similar) kind.

(3) Examples. The provisions of this paragraph may be illustrated by the following examples:

Example (1). Corporation X is engaged exclusively in the trade or business of the transportation of gas by pipeline and is subject to the jurisdiction of the Federal Power Commission. With respect to all its public utility property, X's applicable 1968 method (as determined under paragraph (e) of this section) is the straight line method of depreciation. X may determine its reasonable allowance for depreciation under section 167(a) with respect to its post-1969 public utility property under a straight line method

(or other subsection (l) method) or, if X uses a normalization method of regulated accounting, any other method of depreciation, provided that the use of such other method is allowable under section 167 without regard to section 167(l).

Example (2). Assume the same facts as in example (1) except that with respect to all of X's post-1969 public utility property the applicable 1968 method (as determined under paragraph (e) of this section) is the declining balance method using a rate of 150 percent of the straight line rate. Assume further that all of X's pre-1970 public utility property was accounted for in its July 1969 regulated accounting period, and that X used a flow-through method of regulated accounting for such period. X may determine its reasonable allowance for depreciation under section 167 with respect to its post-1969 public utility property by using the straight line method of depreciation (or any other subsection (l) method), by using any method otherwise allowable under section 167 (such as a declining balance method) if X uses a normalization method of regulated accounting, or, by using the declining balance method using a rate of 150 percent of the straight line rate, whether or not X uses a normalization or a flow-through method of regulated accounting.

(e) Applicable 1968 method.

(1) In general. Under section 167(l)(3)(D), except as provided in subparagraphs (3) and (4) of this paragraph, the term "applicable 1968 method" means with respect to any public utility property-

- (i) The method of depreciation properly used by the taxpayer in its Federal income tax return with respect to such property for the latest taxable year for which a return was filed before August 1, 1969,
- (ii) If subdivision (i) of this subparagraph does not apply, the method of depreciation properly used by the taxpayer in its Federal income tax return for the latest taxable year for which a return was filed before August 1, 1969, with respect to public utility property of the same kind (or if there is no property of the same kind, property of the most similar kind) most recently placed in service before the end of such latest taxable year, or
- (iii) If neither subdivision (i) nor (ii) of this subparagraph applies, a subsection (l) method.

If, on or after August 1, 1969, the taxpayer files an amended return for the taxable year referred to in subdivisions (i) and (ii) of this subparagraph, such amended return shall not be taken into consideration in determining the applicable 1968 method. The term "applicable 1968 method" also means with respect to any public utility property, for the year of change and subsequent years, a method of depreciation otherwise allowable under section 167 to which the taxpayer changes from an applicable 1968 method if, such new method results in a lesser allowance for depreciation for such property under section 167 in the year of change and the taxpayer secures the Commissioner's consent to the change in accordance with the procedures of section 446(e) and §1.446-1.

(2) *Placed in service.* For purposes of this section, property is placed in service on the date on which the period for depreciation begins under section 167. See, for example, § 1.167(a)-10(b) and §1.167(a)-11(c)(2). If under an averaging convention property which is placed in service (as defined in §1.46-3(d)(ii)) by the taxpayer on different dates is treated as placed in service on the same date, then for purposes of section 167(l) the property shall be treated as having been placed in service on the date the period for depreciation with respect to such property would begin under section 167 absent such averaging convention. Thus, for example, if, except for the fact that the averaging convention used assumes that all additions and retirements made during the first half of the year were made on the first day of the year, the period of depreciation for two items of public utility property would begin on January 10 and March 15, respectively, then for purposes of determining the property of the same (or similar) kind most recently placed in service, such items of property shall be treated as placed in service on January 10 and March 15, respectively.

(3) *Certain section 1250 property.* If a taxpayer is required under section 167(j) to use a method of depreciation other than its applicable 1968 method with respect to any section 1250 property, the term "applicable 1968 method" means the method of depreciation allowable under section 167(j) which is the most nearly comparable method to the applicable 1968 method determined under subparagraph (1) of this paragraph. For example, if the applicable 1968 method on new section 1250 property is the declining balance method using 200 percent of the straight line rate, the most nearly comparable method allowable for new section 1250 property under section 167(j) would be the declining balance method using 150 percent of the straight line rate. If the applicable 1968 method determined under subparagraph (1) of this paragraph is the sum of the years-digits method, the term "most nearly comparable method" refers to any method of depreciation allowable under section 167(j).

(4) *Applicable 1968 method in certain cases.*

(i)

(a) Under section 167(l)(3)(E), if the taxpayer evidenced within the time and manner specified in (b) of this subdivision (i) the intent to use a method of depreciation under section 167 (other than its applicable 1968 method as determined under subparagraph (1) or (3) of this paragraph or a subsection (l) method) with respect to any public utility property, such method of depreciation shall be deemed to be the taxpayer's applicable 1968 method with respect to such public utility property and public utility property of the same (or most similar) kind subsequently placed in service.

(b) Under this subdivision (i), the intent to use a method of depreciation under section 167 is evidenced-

(1) By a timely application for permission for a change in method of accounting filed by the

taxpayer before August 1, 1969, or

(2) By the use of such method of depreciation in the computation by the taxpayer of its tax expense for purposes of reflecting operating results in its regulated books of account for its July 1969 regulated accounting period, as established in the manner prescribed in subparagraph (g)(1) (i), (ii), or (iii) of this section.

(ii)

(a) If public utility property is acquired in a transaction in which its basis in the hands of the transferee is determined in whole or in part by reference to its basis in the hands of the transferor by reason of the application of any provision of the Code, or in a transfer (including any purchase for cash or in exchange) from a related person, then in the hands of the transferee the applicable 1968 method with respect to such property shall be determined by reference to the treatment in respect of such property in the hands of the transferor.

(b) For purposes of this subdivision (ii), the term "related person" means a person who is related to another person if either immediately before or after the transfer-

(1) The relationship between such persons would result in a disallowance of losses under section 267 (relating to disallowance of losses, etc., between related taxpayers) or section 707(b) (relating to losses disallowed, etc., between partners and controlled partnerships) and the regulations thereunder, or

(2) Such persons are members of the same controlled group of corporations, as defined in section 1563(a) (relating to definition of controlled group of corporations), except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a) and the regulations thereunder.

(5) *Same or similar.* The classification of property as being of the same (or similar) kind shall be made by reference to the function of the public utility to which the primary use of the property relates. Property which performs the identical function in the identical manner shall be treated as property of the same kind. The determination that property is of a similar kind shall be made by reference to the proper account to which expenditures for the property are chargeable under the system of regulated accounts required to be used by the taxpayer for the period in which the property in question was acquired. Property, the expenditure for which is chargeable to the same account, is property of the most similar kind. Property, the expenditure for which is chargeable to an account for property which serves the same general function, is property of a similar kind. Thus, for example, if corporation X, a

natural gas company, subject to the jurisdiction of the Federal Power Commission, had property properly chargeable to account 366 (relating to transmission plant structures and improvements) acquired an additional structure properly chargeable to account 366, under the uniform system of accounts prescribed for natural gas companies (class A and class B) by the Federal Power Commission, effective September 1, 1968, the addition would constitute property of the same kind if it performed the identical function in the identical manner. If, however, the addition did not perform the identical function in the identical manner, it would be property of the most similar kind.

(6) *Regulated method of accounting in certain cases.* Under section 167(l)(4)(B), if with respect to any pre-1970 public utility property the taxpayer filed a timely application for change in method of accounting referred to in subparagraph (4)(i) (b)(1) of this paragraph and with respect to property of the same (or similar) kind most recently placed in service the taxpayer used a flow-through method of regulated accounting for its July 1969 regulated accounting period, then for purposes of section 167(l)(1)(B) and paragraph (c) of this section the taxpayer shall be deemed to have used a flow-through method of regulated accounting with respect to such pre-1970 public utility property.

(7) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Corporation X is a calendar-year taxpayer. On its Federal income tax return for 1967 (the latest taxable year for which X, prior to August 1, 1969, filed a return) X used a straight line method of depreciation with respect to certain public utility property placed in service before 1965 and used the declining balance method of depreciation using 200 percent of the straight line rate (double declining balance) with respect to the same kind of public utility property placed in service after 1964. In 1968 and 1970, X placed in service additional public utility property of the same kind. The applicable 1968 method with respect to the above described public utility property is shown in the following chart:

Property held in 1970	Placed in service	Method on 1967 return	Applicable 1968 method
Group 1	Before 1965	Straight line	Straight line
Group 2	After 1964 and before 1968	Double declining balance	Double declining balance
Group 3	After 1967 and before 1969		Do
Group 4	After 1968		Do

Example (2). Corporation Y is a calendar-year taxpayer engaged exclusively in the trade or business of the furnishing of electrical energy. In 1954, Y placed in service hydroelectric generators and for all purposes Y has taken straight line depreciation with respect to such generators. In 1960, Y placed in service fossil fuel generators and for all purposes since 1960 has used the declining balance method of depreciation using a rate of 150 percent of the straight line rate (computed without reduction for

salvage) with respect to such generators. After 1960 and before 1970 Y did not place in service any generators. In 1970, Y placed in service additional hydroelectric generators. The applicable 1968 method with respect to the hydroelectric generators placed in service in 1970 would be the straight line method because it was the method used by Y on its return for the latest taxable year for which Y filed a return before August 1, 1969, with respect to property of the same kind (i.e., hydroelectric generators) most recently placed in service.

Example (3). Assume the same facts as in example (2), except that the generators placed in service in 1970 were nuclear generators. The applicable 1968 method with respect to such generators is the declining balance method using a rate of 150 percent of the straight line rate because, with respect to property of the most similar kind (fossil fuel generators) most recently placed in service, Y used such declining balance method on its return for the latest taxable year for which it filed a return before August 1, 1969.

(f) Subsection (l) method. Under section 167(l)(3)(F), the term "subsection (l) method" means a reasonable and consistently applied ratable method of computing depreciation which is allowable under section 167(a), such as, for example, the straight line method or a unit of production method or machine-hour method. The term "subsection (l) method" does not include any declining balance method (regardless of the uniform rate applied), sum of the years-digits method, or method of depreciation which is allowable solely by reason of section 167(b)(4) or (j)(1)(C).

(g) July 1969 regulated accounting period.

(1) In general. Under section 167(l)(3)(l), the term "July 1969 regulated accounting period" means the taxpayer's latest accounting period ending before August 1, 1969, for which the taxpayer regularly computed, before January 1, 1970, its tax expense for purposes of reflecting operating results in its regulated books of account. The computation by the taxpayer of such tax expense may be established by reference to the following:

(i) The most recent periodic report of a period ending before August 1, 1969, required by a regulatory body described in section 167(l)(3)(A) having jurisdiction over the taxpayer's regulated books of account which was filed with such body before January 1, 1970 (whether or not such body has jurisdiction over rates).

(ii) If subdivision (i) of this subparagraph does not apply, the taxpayer's most recent report to its shareholders for a period ending before August 1, 1969, but only if such report was distributed to the shareholders before January 1, 1970, and if the taxpayer's stocks or securities are traded in an established securities market during such period. For purposes of this subdivision, the term "established securities market" has the meaning assigned to such term in §1.453-3(d)(4).

(iii) If subdivisions (i) and (ii) of this subparagraph do not apply, entries made to the satisfaction of the district director before January 1, 1970, in its regulated books of account for its most recent accounting period ending before August 1, 1969.

(2) July 1969 method of regulated accounting in certain acquisitions. If public utility property is acquired in a transaction in which its basis in the hands of the transferee is determined in whole or in part by reference to its basis in the hands of the transferor by reason of the application of any provision of the Code, or in a transfer (including any purchase for cash or in exchange) from a related person, then in the hands of the transferee the method of regulated accounting for such property's July 1969 regulated accounting period shall be determined by reference to the treatment in respect of such property in the hands of the transferor. See paragraph (e)(4)(ii) of this section for definition of "related person".

(3) Determination date. For purposes of section 167(l), any reference to a method of depreciation under section 167(a), or a method of regulated accounting, taken into account by the taxpayer in computing its tax expense for its July 1969 regulated accounting period shall be a reference to such tax expense as shown on the periodic report or report to share-holders to which subparagraph (1)(i) or (ii) of this paragraph applies or the entries made on the taxpayer's regulated books of account to which subparagraph (1)(iii) of this paragraph applies. Thus, for example, assume that regulatory body A having jurisdiction over public utility property with respect to X's regulated books of account requires X to reflect its tax expense in such books using the same method of depreciation which regulatory body B uses for determining X's cost of service for ratemaking purposes. If in 1971, in the course of approving a rate change for X, B retroactively determines X's cost of service for ratemaking purposes for X's July 1969 regulated accounting period using a method of depreciation different from the method reflected in X's regulated books of account as of January 1, 1970, the method of depreciation used by X for its July 1969 regulated accounting period would be determined without reference to the method retroactively used by B in 1971.

(h) Normalization method of accounting.

(1) In general.

(i) Under section 167(l), a taxpayer uses a normalization method of regulated accounting with respect to public utility property-

(a) If the same method of depreciation (whether or not a subsection (l) method) is used to compute both its tax expense and its depreciation expense for purposes of establishing cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account, and

(b) If to compute its allowance for depreciation under section 167 it uses a method of depreciation other than the method it used for purposes described in (a) of this subdivision, the taxpayer makes adjustments consistent with subparagraph (2) of this paragraph to a reserve to reflect the total amount of the deferral of Federal income tax liability resulting from the use with respect to all of its public utility property of such different methods of depreciation.

(ii) In the case of a taxpayer described in section 167(l)(1)(B) or (2)(C), the reference in subdivision (i) of this subparagraph shall be a reference only to such taxpayer's "qualified public utility property". See § 1.167(l)-2(b) for definition of "qualified public utility property".

(iii) Except as provided in this subparagraph, the amount of Federal income tax liability deferred as a result of the use of different method of depreciation under subdivision (i) of this subparagraph is the excess (computed without regard to credits) of the amount the tax liability would have been had a subsection (l) method been used over the amount of the actual tax liability. Such amount shall be taken into account for the taxable year in which such different methods of depreciation are used. If, however, in respect of any taxable year the use of a method of depreciation other than a subsection (l) method for purposes of determining the taxpayer's reasonable allowance under section 167(a) results in a net operating loss carryover (as determined under section 172) to a year succeeding such taxable year which would not have arisen (or an increase in such carryover which would not have arisen) had the taxpayer determined his reasonable allowance under section 167(a) using a subsection (l) method, then the amount and time of the deferral of tax liability shall be taken into account in such appropriate time and manner as is satisfactory to the district director.

(2) Adjustments to reserve.

(i) The taxpayer must credit the amount of deferred Federal income tax determined under subparagraph (1)(i) of this paragraph for any taxable year to a reserve for deferred taxes, a depreciation reserve, or other reserve account. The taxpayer need not establish a separate reserve account for such amount but the amount of deferred tax determined under subparagraph (1)(i) of this paragraph must be accounted for in such a manner so as to be readily identifiable. With respect to any account, the aggregate amount allocable to deferred tax under section 167(l) shall not be reduced except to reflect the amount for any taxable year by which Federal income taxes are greater by reason of the prior use of different methods of depreciation under subparagraph (1)(i) of this paragraph. An additional exception is that the aggregate amount allocable to deferred tax under section 167(l) may be properly adjusted to reflect asset retirements or the expiration of the period for depreciation used in determining the allowance for depreciation under section 167(a).

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). Corporation X is exclusively engaged in the transportation of gas by pipeline subject to the jurisdiction of the Federal Power Commission. With respect to its post-1969 public utility property, X is entitled under section 167(l)(2)(B) to use a method of depreciation other than a subsection (l) method if it uses a normalization method of regulated accounting. With respect to such property, X has not made any election under § 1.167(a)-11 (relating to depreciation based on class lives and asset depreciation ranges). In 1972, X places in service public utility property with an unadjusted basis of \$2 million, and an estimated useful life of 20 years. X uses the declining balance method of depreciation with a rate twice the straight line rate. If X uses a normalization method of regulated accounting, the amount of depreciation allowable under section 167(a) with respect to such property for 1972 computed under the double declining balance method would be \$200,000. X computes its tax expense and depreciation expense for purposes of determining its cost of service for rate-making purposes and for reflecting operating results in its regulated books of account using the straight line method of depreciation (a subsection (l) method). A depreciation allowance computed in this manner is \$100,000. The excess of the depreciation allowance determined under the double declining balance method (\$200,000) over the depreciation expense computed using the straight line method (\$100,000) is \$100,000. Thus, assuming a tax rate of 48 percent, X used a normalization method of regulated accounting for 1972 with respect to property placed in service that year if for 1972 it added to a reserve \$48,000 as taxes deferred as a result of the use by X of a method of depreciation for Federal income tax purposes different from that used for establishing its cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account.

Example (2). Assume the same facts as in example (1), except that X elects to apply § 1.167(a)-11 with respect to all eligible property placed in service in 1972. Assume further that all property X placed in service in 1972 is eligible property. One hundred percent of the asset guideline period for such property is 22 years and the asset depreciation range is from 17.5 years to 26.5 years. X uses the double declining balance method of depreciation, selects an asset depreciation period of 17.5 years, and applies the half-year convention (described in § 1.167(a)-11(c)(2)(iii)). In 1972, the depreciation allowable under section 167(a) with respect to property placed in service in 1972 is \$114,285 (determined without regard to the normalization requirements in § 1.167(a)-11(b)(6) and in section 167(l)). X computes its tax expense for purposes of determining its cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account using the straight line method of depreciation (a subsection (l) method), an estimated useful life of 22 years (that is, 100 percent of the asset guideline period), and the half-year convention. A depreciation allowance computed in this manner is \$45,454. Assuming a tax rate of 48 percent, the amount that X must add to a reserve for 1972 with respect to property placed in service that year in order to qualify as using a normalization method of regulated accounting under section 167(l)(3)(G) is \$27,429 and the amount in order to satisfy the normalization requirements of § 1.167(a)-11(b)(6) is \$5,610. X determined such amounts as follows:

(1) Depreciation allowance on tax return

(determined without regard to section 167(l) and

\$114,285

§1.167(a)-11(b)(6))

(2) Line (1), recomputed using a straight line method	57,142
(3) Difference in depreciation allowance attributable to different methods (line (1) minus line (2))	\$ 57,143
(4) Amount to add to reserve under this paragraph (48 percent of line (3))	27,429
(5) Amount in line (2)	\$57,142
(6) Line (5), recomputed by using an estimated useful life of 22 years and the half-year convention	45,454
(7) Difference in depreciation allowance attributable to difference in depreciation periods	\$11,688
(8) Amount to add to reserve under §1.167(a)-11(b)(6)(ii) (48 percent of line (7))	5,610

If, for its depreciation expense for purposes of determining its cost of service for rate-making purposes and for reflecting operating results in its regulated books of account, X had used a period in excess of the asset guideline period of 22 years, the total amount in lines (4) and (8) in this example would not be changed.

Example (3). Corporation Y, a calendar-year taxpayer which is engaged in furnishing electrical energy, made the election provided by section 167(l)(4)(a) with respect to its "qualified public utility property" (as defined in §1.167(l)-2(b)). In 1971, Y placed in service qualified public utility property which had an adjusted basis of \$2 million, estimated useful life of 10 years, and no salvage value. With respect to property of the same kind most recently placed in service, Y used a flow-through method of regulated accounting for its July 1969 regulated accounting period and the applicable 1968 method is the declining balance method of depreciation using 200 percent of the straight line rate. The amount of depreciation allowable under the double declining balance method with respect to the qualified public utility property would be \$200,000. Y computes its tax expense and depreciation expense for purposes of determining its cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account using the straight line method of depreciation. A depreciation allowance with respect to the qualified public utility property determined in this manner is \$100,000. The excess of the depreciation allowance determined under the double declining balance method (\$200,000) over the depreciation expense computed using the straight line method (\$100,000) is \$100,000. Thus, assuming a tax rate of 48 percent, Y used a normalization method of regulated accounting for 1971 if for 1971 it added to a reserve \$48,000 as tax deferred as a result of the use by Y of a method of depreciation for Federal income tax purposes with respect to

its qualified public utility property which method was different from that used for establishing its cost of service for ratemaking purposes and for reflecting operating results in its regulated books of account for such property.

Example (4). Corporation Z, exclusively engaged in a public utility activity did not use a flow-through method of regulated accounting for its July 1969 regulated accounting period. In 1971, a regulatory body having jurisdiction over all of Z's property issued an order applicable to all years beginning with 1968 which provided, in effect, that Z use an accelerated method of depreciation for purposes of section 167 and for determining its tax expenses for purposes of reflecting operating results in its regulated books of account. The order further provided that Z normalize 50 percent of the tax deferral resulting from the use of the accelerated method of depreciation and that Z flow-through 50 percent of the tax deferral resulting therefrom. Under section 167(l), the method of accounting provided in the order would not be a normalization method of regulated accounting because Z would not be permitted to normalize 100 percent of the tax deferral resulting from the use of an accelerated method of depreciation. Thus, with respect to its public utility property for purposes of section 167, Z may only use a subsection (l) method of depreciation.

Example (5). Assume the same facts as in example (4) except that the order of the regulatory body provided, in effect, that Z normalize 100 percent of the tax deferral with respect to 50 percent of its public utility property and flow-through the tax savings with respect to the other 50 percent of its property. Because the effect of such an order would allow Z to flow-through a portion of the tax savings resulting from the use of an accelerated method of depreciation, Z would not be using a normalization method of regulated accounting with respect to any of its properties. Thus, with respect to its public utility property for purposes of section 167, Z may only use a subsection (l) method of depreciation.

(3) Establishing compliance with normalization requirements in respect of operating books of account. The taxpayer may establish compliance with the requirement in subparagraph (1)(i) of this paragraph in respect of reflecting operating results, and adjustments to a reserve, in its operating books of account by reference to the following:

(i) The most recent periodic report for a period beginning before the end of the taxable year, required by a regulatory body described in section 167(l)(3)(A) having jurisdiction over the taxpayer's regulated operating books of account which was filed with such body before the due date (determined with regard to extensions) of the taxpayer's Federal income tax return for such taxable year (whether or not such body has jurisdiction over rates).

(ii) If subdivision (i) of this subparagraph does not apply, the taxpayer's most recent report to its shareholders for the taxable year but only if (a) such report was distributed to the shareholders before the due date (determined with regard to extensions) of the taxpayer's Federal income tax return for the taxable year and (b) the taxpayer's stocks or securities are traded in an established

securities market during such taxable year. For purposes of this subdivision, the term "established securities market" has the meaning assigned to such term in § 1.453-3(d)(4).

(iii) If neither subdivision (i) nor (ii) of this subparagraph applies, entries made to the satisfaction of the district director before the due date (determined with regard to extensions) of the taxpayer's Federal income tax return for the taxable year in its regulated books of account for its most recent period beginning before the end of such taxable year.

(4) Establishing compliance with normalization requirements in computing cost of service for ratemaking purposes.

(i) In the case of a taxpayer which used a flow-through method or regulated accounting for its July 1969 regulated accounting period or thereafter, with respect to all or a portion of its pre-1970 public utility property, if a regulatory body having jurisdiction to establish the rates of such taxpayer as to such property (or a court which has jurisdiction over such body) issues an order of general application (or an order of specific application to the taxpayer) which states that such regulatory body (or court) will permit a class of taxpayers of which such taxpayer is a member (or such taxpayer) to use the normalization method of regulated accounting to establish cost of service for ratemaking purposes with respect to all or a portion of its public utility property, the taxpayer will be presumed to be using the same method of depreciation to compute both its tax expense and its depreciation expense for purposes of establishing its cost of service for ratemaking purposes with respect to the public utility property to which such order applies. In the event that such order is in any way conditional, the preceding sentence shall not apply until all of the conditions contained in such order which are applicable to the taxpayer have been fulfilled. The taxpayer shall establish to the satisfaction of the Commissioner or his delegate that such conditions have been fulfilled.

(ii) In the case of a taxpayer which did not use the flow-through method of regulated accounting for its July 1969 regulated accounting period or thereafter (including a taxpayer which used a subsection (l) method of depreciation to compute its allowance for depreciation under section 167(a) and to compute its tax expense for purposes of reflecting operating results in its regulated books of account), with respect to any of its public utility property, it will be presumed that such taxpayer is using the same method of depreciation to compute both its tax expense and its depreciation expense for purposes of establishing its cost of service for ratemaking purposes with respect to its post-1969 public utility property. The presumption described in the preceding sentence shall not apply in any case where there is (a) an expression of intent (regardless of the manner in which such expression of intent is indicated) by the regulatory body (or bodies), having jurisdiction to establish the rates of such taxpayer, which indicates that the policy of such regulatory body is in any way inconsistent with the use of the normalization method of regulated accounting by such taxpayer or by a class of taxpayers of which such taxpayer is a member, or (b) a decision by a court having jurisdiction over such regulatory body which decision is in any way inconsistent with the use of the normalization method of

regulated accounting by such taxpayer or a class of taxpayers of which such taxpayer is a member. The presumption shall be applicable on January 1, 1970, and shall, unless rebutted, be effective until an inconsistent expression of intent is indicated by such regulatory body or by such court. An example of such an inconsistent expression of intent is the case of a regulatory body which has, after the July 1969 regulated accounting period and before January 1, 1970, directed public utilities subject to its ratemaking jurisdiction to use a flow-through method of regulated accounting, or has issued an order of general application which states that such agency will direct a class of public utilities of which the taxpayer is a member to use a flow-through method of regulated accounting. The presumption described in this subdivision may be rebutted by evidence that the flow-through method of regulated accounting is being used by the taxpayer with respect to such property.

(iii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). Corporation X is a calendar-year taxpayer and its "applicable 1968 method" is a straight line method of depreciation. Effective January 1, 1970, X began collecting rates which were based on a sum of the years-digits method of depreciation and a normalization method of regulated accounting which rates had been approved by a regulatory body having jurisdiction over X. On October 1, 1971, a court of proper jurisdiction annulled the rate order prospectively, which annulment was not appealed, on the basis that the regulatory body had abused its discretion by determining the rates on the basis of a normalization method of regulated accounting. As there was no inconsistent expression of intent during 1970 or prior to the due date of X's return for 1970, X's use of the sum of the years-digits method of depreciation for purposes of section 167 on such return was proper. For 1971, the presumption is in effect through September 30. During 1971, X may use the sum of the years-digits method of depreciation for purposes of section 167 from January 1 through September 30, 1971. After September 30, 1971, and for taxable years after 1971, X must use a straight line method of depreciation until the inconsistent court decision is no longer in effect.

Example (2). Assume the same facts as in example (1), except that pursuant to the order of annulment, X was required to refund the portion of the rates attributable to the use of the normalization method of regulated accounting. As there was no inconsistent expression of intent during 1970 or prior to the due date of X's return for 1970, X has the benefit of the presumption with respect to its use of the sum of the years-digits method of depreciation for purposes of section 167, but because of the retroactive nature of the rate order X must file an amended return for 1970 using a straight line method of depreciation. As the inconsistent decision by the court was handed down prior to the due date of X's Federal income tax return for 1971, for 1971 and thereafter the presumption of subdivision (ii) of this subparagraph does not apply. X must file its Federal income tax returns for such years using a straight line method of depreciation.

Example (3). Assume the same facts as in example (2), except that the annulment order was stayed pending appeal of the decision to a court of proper appellate jurisdiction. X has the benefit of the presumption as described in example (2) for the year 1970, but for 1971 and thereafter the

presumption of subdivision (ii) of this subparagraph does not apply. Further, X must file an amended return for 1970 using a straight line method of depreciation and for 1971 and thereafter X must file its returns using a straight line method of depreciation unless X and the district director have consented in writing to extend the time for assessment of tax for 1970 and thereafter with respect to the issue of normalization method of regulated accounting for as long as may be necessary to allow for resolution of the appeal with respect to the annulment of the rate order.

(5) Change in method of regulated accounting. The taxpayer shall notify the district director of a change in its method of regulated accounting, an order by a regulatory body or court that such method be changed, or an interim or final rate determination by a regulatory body which determination is inconsistent with the method of regulated accounting used by the taxpayer immediately prior to the effective date of such rate determination. Such notification shall be made within 90 days of the date that the change in method, the order, or the determination is effective. In the case of a change in the method of regulated accounting, the taxpayer shall recompute its tax liability for any affected taxable year and such recomputation shall be made in the form of an amended return where necessary unless the taxpayer and the district director have consented in writing to extend the time for assessment of tax with respect to the issue of normalization method of regulated accounting.

(6) Exclusion of normalization reserve from rate base.

(i) Notwithstanding the provisions of subparagraph (1) of this paragraph, a taxpayer does not use a normalization method of regulated accounting if, for ratemaking purposes, the amount of the reserve for deferred taxes under section 167(l) which is excluded from the base to which the taxpayer's rate of return is applied, or which is treated as no-cost capital in those rate cases in which the rate of return is based upon the cost of capital, exceeds the amount of such reserve for deferred taxes for the period used in determining the taxpayer's tax expense in computing cost of service in such ratemaking.

(ii) For the purpose of determining the maximum amount of the reserve to be excluded from the rate base (or to be included as no-cost capital) under subdivision (i) of this subparagraph, if solely an historical period is used to determine depreciation for Federal income tax expense for ratemaking purposes, then the amount of the reserve account for the period is the amount of the reserve (determined under subparagraph (2) of this paragraph) at the end of the historical period. If solely a future period is used for such determination, the amount of the reserve account for the period is the amount of the reserve at the beginning of the period and a pro rata portion of the amount of any projected increase to be credited or decrease to be charged to the account during such period. If such determination is made by reference both to an historical portion and to a future portion of a period, the amount of the reserve account for the period is the amount of the reserve at the end of the historical portion of the period and a pro rata portion of the amount of any projected increase to be credited or decrease to be charged to the account during the future portion of the period. The pro

rata portion of any increase to be credited or decrease to be charged during a future period (or the future portion of a part-historical and part-future period) shall be determined by multiplying any such increase or decrease by a fraction, the numerator of which is the number of days remaining in the period at the time such increase or decrease is to be accrued, and the denominator of which is the total number of days in the period (or future portion).

(iii) The provisions of subdivision (i) of this subparagraph shall not apply in the case of a final determination of a rate case entered on or before May 31, 1973. For this purpose, a determination is final if all rights to request a review, a rehearing, or a redetermination by the regulatory body which makes such determination have been exhausted or have lapsed. The provisions of subdivision (ii) of this subparagraph shall not apply in the case of a rate case filed prior to June 7, 1974, for which a rate order is entered by a regulatory body having jurisdiction to establish the rates of the taxpayer prior to September 5, 1974, whether or not such order is final, appealable, or subject to further review or reconsideration.

(iv) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). Corporation X is exclusively engaged in the transportation of gas by pipeline subject to the jurisdiction of the Z Power Commission. With respect to its post-1969 public utility property, X is entitled under section 167(l)(2)(B) to use a method of depreciation other than a subsection (l) method if it uses a normalization method of regulated accounting. With respect to X the Z Power Commission for purposes of establishing cost of service uses a recent consecutive 12-month period ending not more than 4 months prior to the date of filing a rate case adjusted for certain known changes occurring within a 9-month period subsequent to the base period. X's rate case is filed on January 1, 1975. The year 1974 is the recorded test period for X's rate case and is the period used in determining X's tax expense in computing cost of service. The rates are contemplated to be in effect for the years 1975, 1976, and 1977. The adjustments for known changes relate only to wages and salaries. X's rate base at the end of 1974 is \$145,000,000. The amount of the reserve for deferred taxes under section 167(l) at the end of 1974 is \$1,300,000, and the reserve is projected to be \$4,400,000 at the end of 1975, \$6,600,000 at the end of 1976, and \$9,800,000 at the end of 1977. X does not use a normalization method of regulated accounting if the Z Power Commission excludes more than \$1,300,000 from the rate base to which X's rate of return is applied. Similarly, X does not use a normalization method of regulated accounting if, instead of the above, the Z Power Commission, in determining X's rate of return which is applied to the rate base, assigns to no-cost capital an amount that represents the reserve account for deferred tax that is greater than \$1,300,000.

Example (2). Assume the same facts as in example (1) except that the adjustments for known changes in cost of service made by the Z Power Commission include an additional depreciation expense that reflects the installation of new equipment put into service on January 1, 1975. Assume further that the reserve for deferred taxes under section 167(l) at the end of 1974 is \$1,300,000 and

that the monthly net increase for the first 9 months of 1975 are projected to be

January 1-31	\$310,000
February 1-28	300,000
March 1-31	300,000
April 1-30	280,000
May 1-31	270,000
June 1-30	260,000
July 1-31	260,000
August 1-31	250,000
September 1-30	240,000
	<hr/>
	\$2,470,000

For its regulated books of account X accrues such increases as of the last day of the month but as a matter of convenience credits increases or charges decreases to the reserve account on the 15th day of the month following the whole month for which such increase or decrease is accrued. The maximum amount that may be excluded from the rate base is \$2,470,879 (the amount in the reserve at the end of the historical portion of the period (\$1,300,000) and a pro rata portion of the amount of any projected increase for the future portion of the period to be credited to the reserve (\$1,170,879)). Such pro rata portion is computed (without regard to the date such increase will actually be posted to the account) as follows:

$\$310,000 \times 243/273 =$	\$275,934
$300,000 \times 215/273 =$	236,264
$300,000 \times 184/273 =$	202,198
$280,000 \times 154/273 =$	157,949
$270,000 \times 123/273 =$	121,648
$260,000 \times 93/273 =$	88,571
$260,000 \times 62/273 =$	59,048
$250,000 \times 31/273 =$	28,388
$240,000 \times 1/273 =$	879
	<hr/>
	\$1,170,879

Example (3). Assume the same facts as in example (1) except that for purposes of establishing cost of service the Z Power Commission uses a future test year (1975). The rates are contemplated to be in effect for 1975, 1976, and 1977. Assume further that plant additions, depreciation expense, and taxes are projected to the end of 1975 and that the reserve for deferred taxes under section 167(l) is \$1,300,000 for 1974 and is projected to be \$4,400,000 at the end of 1975. Assume also that the Z

Power Commission applies the rate of return to X's 1974 rate base of \$145,000,000 X and the Z Power Commission through negotiation arrive at the level of approved rates. X uses a normalization method of regulated accounting only if the settlement agreement, the rate order, or record of the proceedings of the Z Power Commission indicates that the Z Power Commission did not exclude an amount representing the reserve for deferred taxes from X's rate base (\$145,000,000) greater than \$1,300,000 plus a pro rata portion of the projected increases and decreases that are to be credited or charged to the reserve account for 1975. Assume that for 1975 quarterly net increases are projected to be

1st quarter	\$910,000
2nd quarter	810,000
3rd quarter	750,000
4th quarter	630,000
Total	<hr/> \$3,100,000

For its regulated books of account X will accrue such increases as of the last day of the quarter but as a matter of convenience will credit increases or charge decreases to the reserve account on the 15th day of the month following the last month of the quarter for which such increase or decrease will be accrued. The maximum amount that may be excluded from the rate base is \$2,591,480 (the amount of the reserve at the beginning of the period (\$1,300,000) plus a pro rata portion (\$1,291,480) of the \$3,100,000 projected increase to be credited to the reserve during the period). Such portion is computed (without regard to the date such increase will actually be posted to the account) as follows:

$\$910,000 \times 276/365 =$	\$688,110
$810,000 \times 185/365 =$	410,548
$750,000 \times 93/365 =$	191,096
$630,000 \times 1/365 =$	1,726
	<hr/> \$1,291,480

(i) Flow-through method of regulated accounting. Under section 167(l)(3)(H), a taxpayer uses a flow-through method of regulated accounting with respect to public utility property if it uses the same method of depreciation (other than a subsection (l) method) to compute its allowance for depreciation under section 167 and to compute its tax expense for purposes of reflecting operating results in its regulated books of account unless such method is the same method used by the taxpayer to determine its depreciation expense for purposes of reflecting operating results in its regulated books of account. Except as provided in the preceding sentence, the method of depreciation used by a taxpayer with respect to public utility property for purposes of determining cost of service for ratemaking purposes or rate base for ratemaking purposes shall not be considered in determining whether the taxpayer used a

flow-through method of regulated accounting. A taxpayer may establish use of a flow-through method of regulated accounting in the same manner that compliance with normalization requirements in respect of operating books of account may be established under paragraph (h)(4) of this section.

T.D. 7315, 6/6/74 .

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-45
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REQUEST:

Refer to the Company's Response to CPAD DR 1-03(g). Specifically refer to the Company's statement in that response that "[t]o include a per-books tax expense number from a period other than the test period and a reduction to rate base for the deferred taxes for the test period would clearly violate these provisions."

- (a) Admit that the per-books tax expense used in Docket No. 16-00105 and in TPUC Staffs requested version of the revenue requirement model in this Docket No. 17-00091 were both booked in the applicable test period for each respective docket. If you deny, explain fully and with specificity.
- (b) Admit that there is substantial overlap between the per-books tax expense and the reduction to rate base for the deferred taxes in the applicable test periods in Docket No. 16-00105 and in TPUC Staffs requested version of the revenue requirement model in this Docket No. 17-00091. If you deny, explain fully and with specificity.
- (c) To the extent there is overlap between the per-books tax expense and the reduction to rate base for the deferred taxes in the applicable test period in Docket No. 16-00105 and in the test period applicable to TPUC Staffs requested version of the revenue requirement model in this Docket No. 17-00091, quantify the extent of such overlap in terms of dollars and months (or days) and, further, quantify the extent to which there is not an overlap between such items.
- (d) State each component of per-books tax expense and the reduction to rate base for deferred taxes and provide in detail the allocations and calculations by which the Company accrues and assigns such item to the test period in this Docket 17-00091.
- (e) State and explain fully each estimate or projection (and all underlying calculations) used in determining for rate making purposes the Company's tax expense, depreciation expense, and reserve for deferred taxes in the test period. Further, explain any inconsistent estimates among each of tax expense, depreciation expense, and reserve for deferred taxes in the test period in Docket No. 16-00105 and in the test period applicable to TPUC Staffs requested version of the revenue requirement model in this Docket No. 17-0009.

RESPONSE:

- a) Deny.

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The per-books tax expense used in both Docket No. 16-00105 and in TPUC Staff's requested version of the revenue requirement model in this Docket No. 17-00091 is the per books tax expense for the 12 months ending on the prior September.

Docket No. 16-00105 was for the Forward Looking Test Year June 1, 2015 through May 31, 2016. Therefore the test period being reconciled included only 4 months of the booked tax expense for the 12 month period ended September 30, 2015. By utilizing the September 30, 2015 per books tax expense the test period being reconciled included 8 months of tax expense (October 1, 2014 - May 31, 2015) which bore no relation to the test period and were not book in the test period being reconciled.

Docket 17-0009 is for the Forward Looking Test Year June 1, 2016 through May 31, 2017. TPUC Staff's requested version of the revenue requirement model in this docket, like the last docket, would include only 4 months of the booked tax expense for the 12 month period ended September 30, 2016. By utilizing the September 30, 2016 per books tax expense the test period being reconciled includes 8 months of tax expense (October 1, 2015 - May 31, 2016) which bears no relation to the test period and was not book in the test period being reconciled. Furthermore, Staff's requested version fails to include, in the test period being reconciled, 8 months of tax expense, which is directly related to the test period (October 1, 2016 - May 31, 2017).

b) Deny.

For both dockets and as explained in the response to item (a), there is only 4 months of tax expense included in the filings related to the test periods being reconciled. However there is a reduction to rate base for the deferred taxes accrued during all 12 months included in the test periods being reconciled. There is a gap of 8 months between the per-books tax expense included in the filing and the deferred taxes reflected as a reduction to ratebase.

The Company does not believe that an overlap of only 4 months meets the definition of substantial overlap.

c) The computations requested are not prepared in the normal course of business or for purposes of this filing and are not available.

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- d) Please see the relied file "ADIT TN Projection June 2017 to Rates.xlsx" provided at the time the filing was made for the detail and assignment of deferred taxes to the test period.

- e) Please see Ms. Story's testimony and submitted DR responses. The Company has explained its calculations and methodology for computing tax expense and deferred taxes within its filing. Ms. Story's testimony and the DR responses also explain the inconsistencies and normalization issues inherent in the TPUC Staff's requested version.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-46
Page 1 of 1

REQUEST:

Refer to the Company's Response to CPAD DR 1-03(g). Specifically refer to Revenue Procedure 2017-47 (September 7, 2017) and provide (a) each Inconsistent Practice or Procedure identified by the Company, and (b) the Next Available Opportunity with respect to the normalization violation the Company believes occurred in this Docket and preceding related dockets.

RESPONSE:

- a) The Company identified an inconsistent practice as defined by Revenue Procedure 2017-47 in June 2017. The inadvertent normalization violation resulted from including per-books income tax expense in cost of service in Tennessee Docket No. 16-00105. No other inconsistent practice or procedure has been identified in the Company's Tennessee rate filings.
- b) This Docket 17-00091 is the Next Available Opportunity for the Company to change its inconsistent practice in order to comply with the normalization provisions within the protection of the safe harbor offered by Revenue Procedure 2017-47.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-47
Page 1 of 1

REQUEST:

Refer to the Company's Response to CPAD DR 1-03(g). Specifically refer to Revenue Procedure 2017-47 (September 7, 2017). Explain fully and with specificity the basis for the Company's apparent position that the Next Available Opportunity is this Docket No. 17-00091.

RESPONSE:

Section .07 of Revenue Procedure 2017-47 defines next available opportunity as follows: "Next Available Opportunity (1) In the case of a taxpayer without a Rate Proceeding pending before the Taxpayer's Regulator, the Next Available Opportunity means the next Rate Proceeding. (2) In the case of a taxpayer with a Rate Proceeding currently pending before the Taxpayer's Regulator, the Next Available Opportunity means the currently pending proceeding, unless the rules of the Taxpayer's Regulator or applicable state or federal law (at the time the Inconsistent Practice or Procedure is identified) preclude the taxpayer from initiating a change from an Inconsistent Practice or Procedure to a Consistent Practice or Procedure in the currently pending proceeding, in which case the currently pending proceeding shall not be the Next Available Opportunity, and the Next Available Opportunity means the next Rate Proceeding."

Section .02 of Revenue Procedure 2017-47 defines rate proceeding as follows: "Rate Proceeding means a proceeding in which the Taxpayer's Regulator establishes or approves the taxpayer's rates"

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-49
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REQUEST:

Refer to Revenue Procedure 2017-47 (September 7, 2017). In the context of that Revenue Procedure, state the extent of discretion permitted to the Commission with respect to the determination of whether or not a normalization violation has occurred and, further, the consequences of (a) a determination by the Commission that the methodologies used in Docket No. 16-00105 and in this Docket No. 17-00091 constitute a normalization violation and (b) a determination by the Commission that the methodologies used in Docket No. 16-00105 and in this Docket No. 17-00091 do not constitute a normalization violation.

RESPONSE:

The normalization provisions are promulgated by the Internal Revenue Service. Only the Internal Revenue Service has the authority to determine whether a normalization violation has occurred. The penalties for violating the normalization provisions are severe and would result in devastating financial implications to both the Company and its customers. The severity of these consequences ensures that companies and Commissions in the jurisdictions where they operate comply with these rules.

In response to CPAD DR No. 1-03(g), the Company has described why using the per-books income tax expense amounts in this filing result in a normalization violation. If the Company was required to include these amounts, it would be in violation of the normalization provisions and subject to the loss of accelerated tax depreciation.

Furthermore, if the Company was required to use the per-books income tax expense amounts in this filing, the Safe Harbor offered by Revenue Procedure 2017-47 would not be available to the Company. Section .02 of Revenue Procedure 2017-47 states "For purposes of section 3.01(2) of this revenue procedure, a taxpayer's Inconsistent Practice or Procedure is neither inadvertent nor unintentional if the Taxpayer's Regulator specifically considered and specially addressed the application of the Normalization Rules to the Inconsistent Practice or Procedure in establishing or approving the taxpayer's rates even if at the time of such consideration the Taxpayer's Regulator did not believe the practice or procedure was inconsistent with the Normalization Rules."

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Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-50
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REQUEST:

Refer to Revenue Procedure 2017-47 (September 7, 2017). In the context of that Revenue Procedure, state whether or not the Company's proposed change in the calculation of tax expense would totally reverse the effect of the Inconsistent Practice or Procedures identified by the Company above.

RESPONSE:

The Company's proposed change would totally reverse the effect of the Inconsistent Practice or Procedures. In this context, "totally reverse" means to abandon the previous practice and to completely adopt the new method. The Company has done so by including calculated income tax expense using statutory tax rates in this filing.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-51
Page 1 of 1

REQUEST:

Confirm that the tax depreciation incorporated within the calculation of the division 93 ADFIT liability differs from the tax depreciation incorporated within the calculation of the NOL asset, allocated to Tennessee, within the Company's filing. Explain the reasons for such differing amounts within the revenue requirement calculation.

RESPONSE:

Deny.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-52
Page 1 of 1

REQUEST:

If CPAD DR 4-51 is confirmed, address whether such differing amounts of Tennessee tax depreciation applied to defining a liability and asset represents a normalization violation.

RESPONSE:

Not applicable.