

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:)	
)	
RESPONSE OF ATMOS ENERGY)	DOCKET NO.
CORPORATION TO THE)	18-00034
COMMISSION'S ORDER OPENING)	
AN INVESTIGATION AND)	
REQUIRING DEFERRED)	
ACCOUNTING TREATMENT)	

**CONSUMER ADVOCATE'S FIRST DISCOVERY REQUEST
TO ATMOS ENERGY CORPORATION**

To: A. Scott Ross, Esq.
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This First Discovery Request is hereby served upon Atmos Energy Corporation (Company), pursuant to Rules 26, 33, 34 and 36 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg. 1220-1-2-.11. The Consumer Protection and Advocate Division of the Attorney General's Office (Consumer Advocate) requests that full and complete responses be

provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Consumer Protection and Advocate Division, 315 Deaderick Street, 20th Floor, Nashville, Tennessee 37243, c/o Karen H. Stachowski, on or before 2:00 p.m. (CDT), November 5, 2018.

PRELIMINARY MATTERS AND DEFINITIONS

1. **Continuing Request.** These discovery requests are to be considered continuing in nature and are to be supplemented from time to time as information is received by the Producing Party and any of its affiliates which would make a prior response inaccurate, incomplete, or incorrect.
2. **Clear References.** To the extent that the data or information requested is incorporated or contained in a document, identify the document including page/line number if applicable.
3. **Format of Responses.** Provide all responses in the format in which they were created or maintained, for example, Microsoft Word or Microsoft Excel format with all cells and formulas intact and in working order. If a document (including without limitation a financial or other spreadsheet or work paper) is not created or maintained in Microsoft Excel format, convert the document to Microsoft Excel format or provide the document in a format that enables or permits functionality like or similar to Microsoft Excel (including without limitation the functionality of working cells and formulas), or provide the software program(s) that will enable the Consumer Advocate to analyze the data and information in the same manner as would be enabled or permitted if the document were provided in Microsoft Excel format.

4. **Objections.** If any objections to this discovery are raised on the basis of privilege or immunity, include in your response a complete explanation concerning the privilege or immunity asserted. If you claim a document is privileged, identify the document and state the basis for the privilege or immunity asserted. If you contend that you are entitled to refuse to fully answer any of this discovery, state the exact legal basis for each such refusal.
5. **Singular/Plural.** The singular includes the plural, and vice-versa, where appropriate.
6. **Questions.** Any questions regarding this discovery request should be directed to the attorneys listed as issuing this Request.
7. **Definitions.** For the purposes of this Request, the following terms have the following meanings:
 - (A) **"Affiliate"** shall mean any entity who, directly or indirectly, is in control of, is controlled by, or is under common control with the Company (that is the Producing Party). For greater clarification, "control" is the ownership of 20% or more of the shares of stock entitled to vote for the election of directors in the case of a corporation, or 20% or more of the equity interest in the case of any other type of entity, or status as a director or officer of a corporation or limited liability company, or status as a partner of a partnership, or status as an owner of a sole proprietorship, or any other arrangement whereby a person has the power to choose, direct, or manage the board of directors or equivalent governing body, officers, managers, employees, proxies, or agents of another person. In addition, the term "Affiliate" shall mean any entity that directly or indirectly provides management or operational services to the Company or any affiliate (as defined in the preceding sentence) of the Company, or to which the Company provides management or operational services. Further, the payment of money to the Company or receipt by the Company of money from an entity with which the Company has any relationship, other than such payment or receipt, shall include the payor or recipient of such money as an "Affiliate" for purposes of this Request.
 - (B) **"Communication"** shall mean any transmission of information by oral, graphic, written, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, meetings, and otherwise.

- (C) **“Document”** shall have the broadest possible meaning under applicable law. “Document shall mean any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, or recorded medium in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, letter, note, report, electronic mail, memorandum work paper, spreadsheet, photograph, videotape, audio tape, computer disk or record, or any other data compilation in any form without limitation, which is in your possession, custody or control. If any such document was, but no longer is, in your possession, custody or control, state what disposition was made of the document and the date of the disposition.
- (D) **“Identify”** with respect to:
- i. Any natural person, to state the full name, telephone number(s), email address(es) and the current or last known business address of the person (if no business address is available provide last address(es) known to you) and that person’s relationship, whether business, commercial, professional, or personal with you;
 - ii. Any legal person, business entity or association, means to state the full name of your contact person with the entity, all trade name(s), doing business as name(s), telephone number(s), email address(es) and current or last known business address of such person or entity (if no business address is available provide last address known to you);
 - iii. Any document, means to state the type of document (*e.g.*, letter), the title of the document, identify the author(s), the subject matter, the date the document bears and the date it was written; and
 - iv. Any oral communication means to state the date when and location where it was made, identify the person who made it, identify the person or persons who were present or who heard it, and the substance of it.
- (E) **“Person”** or **“Entity”** shall mean any natural person, corporation, limited liability company, firm, company, proprietorship, partnership, business, unincorporated association, or other business or legal entity of any sort whatsoever.
- (F) **“You,” “Your,” “Company,”** or **“Atmos”** shall mean Atmos Energy Corporation and all employees, officers, directors, agents, attorneys, representatives or any other person acting or purporting to act on the Company that is the Producing Party’s behalf.

FIRST INFORMAL DISCOVERY REQUESTS

1-1. What is the last year in which Atmos made federal income tax payments?

RESPONSE:

1-2. Provide all relevant support and documents for the determination of a 28-year amortization period under the Reverse South Georgia Methodology (RSGM) for amortization.

RESPONSE:

1-3. Does Atmos contend it is possible to use the Average Rate Assumption Method (ARAM) for amortization applied to those assets in which the vintage of the asset in question is known, and apply the RSGM to those assets in which the vintage is unknown? Provide a comprehensive explanation and documents supporting your response.

RESPONSE:

1-4. Identify all book/tax timing differences comprising the \$27.7 Million balance as referenced on page 15, line 2 of Ms. Story's testimony. This response should be similar in format to that provided in Atmos' Response to Docket No. 18-00067, CPAD Request 1-03, Attachment 6. If not clearly identified within a unique line item within the schedule, separately identify the book/tax timing differences associated with the following:

- a. Cost of Removal; and
- b. Repair Allowance.

RESPONSE:

- 1-5. Referring to the State Bonus Depreciation Adjustment, provide a comprehensive explanation and all documents supporting the formula in Cell D32 within Attachment 1, in Atmos' Response to Docket No. 18-00067, CPAD Request 2-03.

RESPONSE:

- 1-6. Referring to Atmos' Response to Docket No. 18-00067, CPAD Request 1-03, Attachment 6, provide a comprehensive discussion and supporting documents of the types of transactions giving rise to the differences identified as:

- (a) "Federal Treasury Lock Adjustment,"
- (b) "Realized," and
- (c) "Unrealized."

RESPONSE:

- 1-7. Does Atmos have a Tax Sharing Agreement, or other similar document identifying how tax payments and tax gains and losses will be shared among its divisions? If so, provide a copy of any such agreement or similar document along with a comprehensive discussion and documents supporting all of the implications of such agreement on the following:

- a. Tax Payments;
- b. Accumulated Deferred Income Tax (ADIT) balances; and
- c. Net Operating Loss Carryover balances assigned to Atmos' Tennessee jurisdictional operations.

RESPONSE:

- 1-8. Referring to Atmos' Response to Docket No. 18-00067, CPAD Request 1-03, Attachment 6, provide a comprehensive discussion and documents supporting the similarities and distinctions between the line item identified as "State Bonus Depreciation" as referenced in Tabs 091 and 093. This response should include, but not be limited to, a confirmation that Kentucky state corporate income tax does not permit the recognition of Bonus Depreciation and that the Bonus Depreciation referenced within Tab 091 is exclusive to Kentucky-based assets.

RESPONSE:

- 1-9. Referring to Atmos' Response to Docket No. 18-00067, CPAD Request 1-03, Attachment 6, provide all underlying support and documents for the amounts identified as "State Bonus Depreciation" within Tab 091 in the amount of \$3,558,608, and Tab 093 in the amount of \$2,738,212.

RESPONSE:

- 1-10. Regarding the Atmos' Response to Docket No. 18-00067, CPAD Request 1-11, Atmos references Treasury Regulation §1.1502-11, which indicates consolidated taxable income shall take into account the separate taxable income of each member of the group. Confirm the following:
- a. Atmos calculates an Atmos-Tennessee taxable income balance each year; and
 - b. Such a calculation is required by IRS regulations.

RESPONSE:

1-11. Regarding the Atmos' Response to Docket No. 18-00067, CPAD Request 1-19, Atmos contends that the rapid flow-back of excess deferred taxes would result in negative implications for customers and shareholders. Further, Atmos contends it would have negative cash flow implications and could result in the degradation of its credit ratings. Provide all analysis and documents supporting this contention as it relates to a potential flowback of excess unprotected ADIT associated with Cost of Removal and the Repair Allowance differences for Tennessee.

RESPONSE:

1-12. Provide a copy of the tax discovery related to the Tax Cuts and Jobs Act (TCJA), documents and responses provided by Atmos to the state utility commission staffs in the states of Colorado, Kansas, Virginia and Kentucky.

RESPONSE:

1-13. Regarding Atmos' designation of the Repair Deduction as "Protected" excess ADIT, indicate whether it contends implementing the "flow-through" method for computing income tax expense for ratemaking purposes associated with the Repair Deduction on a prospective basis would pose a normalization violation. Provide all analysis and documents supporting this contention.

RESPONSE:

1-14. Regarding Atmos' designation of the Repair Deduction as "Protected" excess ADIT, indicate whether it contends it would have been a normalization violation had the TPUC

adopted the flow-through method for inclusion of the Repair Deduction for purposes of computing Income Tax Expense in prior ratemaking proceedings. Provide all analysis and documents supporting this contention.

RESPONSE:

- 1-15. Refer to Atmos' Response to Docket No. 18-00067, CPAD Request 1-03, Attachment 5. Provide a comprehensive explanation and all documents with supporting workpapers for your use of the 2.3% state tax rate within the computation of the composite tax rate – post TCJA.

RESPONSE:

- 1-16. Refer to Atmos' Response to CPAD Request 1-03, Attachment 5. Within Tabs "Total TN" and "091" is an entry identified as "Union Gas – Non-Compete". With respect to this entry provide the following:
- a. Provide a comprehensive explanation identifying the nature of this book/tax timing difference.
 - b. Identify the date the timing difference originated.
 - c. Provide a comprehensive explanation of the accounting for the transaction giving rise to this difference, including identification of the jurisdiction, accounts and amounts charged by year for the period 2014 – 2018 year to date. This would include identifying all accounts charged related to this transaction, not simply the impact of the transaction on ADIT balances.

RESPONSE:

- 1-17. Provide all agreements, settlements, consent orders, and other similar documents with the federal Internal Revenue Service and state revenue tax authorities received during the time period of 2014 to the present that Atmos contends support its position in this Docket.

RESPONSE:

- 1-18. Provide all Private Letter Rulings that Atmos contends support its position in this Docket.

RESPONSE:

RESPECTFULLY SUBMITTED,



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Assistant Attorney General

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CERTIFICATE OF SERVICE

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

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This the 22nd day of October, 2018.



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