

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

May 25, 2006

IN RE:)	
)	
PETITION OF THE CONSUMER)	DOCKET NO.
ADVOCATE TO OPEN AN)	05-00258
INVESTIGATION TO DETERMINE)	
WHETHER ATMOS ENERGY CORP.)	
SHOULD BE REQUIRED BY THE)	
TENNESSEE REGULATORY)	
AUTHORITY TO APPEAR AND SHOW)	
CAUSE THAT ATMOS ENERGY CORP.)	
IS NOT OVEREARNING IN VIOLATION)	
OF TENNESSEE LAW AND THAT IT IS)	
CHARGING RATES THAT ARE JUST)	
AND REASONABLE)	

ORDER GRANTING INTERVENTIONS AND SETTING PROCEDURAL SCHEDULE

This docket came before the Hearing Officer at a Status Conference to consider any petitions to intervene and to establish a procedural schedule. The *Notice of Status Conference* issued on May 16, 2006 notified interested persons that the Status Conference is scheduled to: 1) dispose of any outstanding petitions to intervene; 2) establish a procedural schedule; and 3) resolve any other pending matters. A *Notice of Proposed Procedural Schedule* issued on May 19, 2006.

I. PETITIONS TO INTERVENE

Chattanooga Gas Company filed a petition to intervene on November 3, 2005, and the Atmos Intervention Group¹ filed a petition to intervene on May 18, 2006. In each of the

¹ According to its petition to intervene, the Atmos Intervention Group includes customers who purchase natural gas from Atmos such as Berkline, LLC and Koch Foods, Inc. See *Petition to Intervene of Atmos Intervention Group*, 1 (May 18, 2006).

petitions, it is asserted that the Petitioners' legal interests may be determined by this proceeding.² Tennessee Code Annotated Section 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

(2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.³

During the Status Conference, the Hearing Officer granted the petitions to intervene filed by Chattanooga Gas Company and the Atmos Intervention Group. The Hearing Officer finds that the petitions were timely filed and substantiate that Petitioners' legal interests may be affected by this docket. Further, Petitioners' intervention will not impair the interests of justice or the orderly and prompt conduct of this docket. Therefore, pursuant to Tennessee Code Annotated Section 4-5-310(a), the Hearing Officer granted the petitions.

Also during the Status Conference, an issue was raised as to whether the Authority Investigative Staff would act as a party in this proceeding. After determining that it may not be clear whether the Investigative Staff was granted party status during the May 15, 2006 Authority Conference, the Hearing Officer invited Investigative Staff to orally move for intervention. After hearing Investigative Staff's motion, the Hearing Officer asked for objections. Upon hearing no objection to the intervention, the Hearing Officer granted the oral motion.

² See *Petition to Intervene*, 2 (Nov. 3, 2005); *Petition to Intervene of Atmos Intervention Group*, 1 (May 18, 2006).

³ Tenn. Code Ann. § 4-5-310(a) (2005).

II. PROCEDURAL SCHEDULE

The charge of the Hearing Officer is to consider both traditional and show cause contested case schedules and to adopt the schedule determined to be the most efficient and expeditious.⁴ With this end in mind, the Hearing Officer developed the following schedules:

- (1) a traditional schedule with all parties filing discovery, pre-filed direct testimony, and pre-filed rebuttal testimony simultaneously
- (2) a traditional schedule with each party having a round of discovery and with intervenors filing pre-filed direct testimony first
- (3) a show cause schedule with each party having a round of discovery and Atmos filing pre-filed direct testimony first
- (4) a show cause schedule excluding all intervenors and requiring testimony from Atmos

After considering the relative strengths, weaknesses, and time to completion of each schedule, the Hearing Officer issued the *Notice of Proposed Procedural Schedule* on May 19, 2006 with the schedule of the first alternative attached.

After ruling on the petitions to intervene, the Hearing Officer asked for comments on the proposed schedule from the parties. Shortly thereafter, it was determined that a recess during which time the parties could confer on the proposed procedural schedule would be beneficial.

After an extended recess, the parties reported to the Hearing Officer that they had reached agreement as to certain modifications to the proposed procedural schedule. Thereafter, discussions between the Hearing Officer and the parties ensued and further adjustments to the schedule were made. Upon conclusion of all discussions, the parties unanimously agreed to the procedural schedule attached hereto as Exhibit A.⁵ The following agreements were also reached:

- Atmos agreed to waive any objection to a party submitting more than forty (40) discovery requests.⁶

⁴ Transcript of Proceedings, May 15, 2006, pp. 29-39 (Authority Conference).

⁵ Atmos agreed to the procedural schedule, but noted for the record its objections previously raised. Transcript of Proceedings, May 22, 2006, p. 20 (Status Conference).

⁶ *Id.* at 20-21; see Tenn. Comp. R. and Regs. 1220-1-2-.11(5) (Rev. July 2003).

- All parties agreed to serve materials by hand, facsimile or electronic mail on the date due to be filed.⁷
- Authority Advisory Staff shall follow the discovery schedule when issuing data requests.⁸

III. CONCLUSION

At the conclusion of the procedural schedule discussion, the Hearing Officer asked whether there were any further issues to discuss. None being raised, the Hearing Officer adjourned the conference.

IT IS THEREFORE ORDERED THAT:

1. The petitions to intervene filed by Chattanooga Gas Company and the Atmos Intervention Group are granted.
2. The oral motion of the Authority Investigative Staff to intervene is granted.
3. The procedural schedule attached hereto as Exhibit A and the requirements set out herein are adopted.



Ron Jones, Chairman
Acting as Hearing Officer⁹

⁷ Transcript of Proceedings, May 22, 2006, pp. 26-27 (Status Conference).

⁸ *Id.* at 8, 11.

⁹ During the May 15, 2006 Authority Conference, a panel of the Tennessee Regulatory Authority consisting of Chairman Ron Jones and Directors Sara Kyle and Pat Miller unanimously voted to appoint Chairman Jones as the Hearing Officer to prepare this docket for a hearing by the panel. Transcript of Proceedings, May 15, 2006, pp. 29-39 (Authority Conference).

EXHIBIT A

Procedural Schedule

Discovery Requests and Proposed Procedural Schedule Filed	May 26, 2006
Discovery Objections Filed	June 2, 2006
Status Conference on Objections (if necessary)	June 8, 2006 at 9:00 a.m.
Discovery Responses Filed	June 23, 2006
Pre-Filed Direct Testimony Filed	July 14, 2006
Discovery Requests Filed	July 21, 2006
Discovery Objections Filed	July 25, 2006
Status Conference on Objections (if necessary)	July 27, 2006 at 9:00 a.m.
Order on Objections	July 28, 2006
Discovery Responses Filed	August 4, 2006
Pre-Filed Rebuttal Testimony Filed	August 18, 2006
Hearing	August 29 – September 1, 2006 ¹⁰

¹⁰ The parties proposed that the Authority choose dates that fall within August 23 through September 1, 2006. Transcript of Proceedings, May 22, 2006, p. 19 (Status Conference).