

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 2, 2007

IN RE:

ATMOS ENERGY CORPORATION'S
TARIFF FILING TO MODIFY AND ADD
LANGUAGE REGARDING
TRANSPORTATION SERVICE
(TARIFF NO. 2007-0021)

**DOCKET NO.
07-00020**

**ORDER ESTABLISHING PROCEDURAL SCHEDULE, GRANTING
INTERVENTIONS, AND SUSPENDING TARIFF**

This docket came before the Hearing Officer at a Status Conference on September 25, 2007 to establish a procedural schedule, consider any petitions to intervene, and resolve any preliminary matters. The *Notice of Status Conference* was issued on September 18, 2007 notifying interested persons that a Status Conference is scheduled for the purposes of establishing a procedural schedule, addressing discovery between the parties, and considering any other pre-hearing matters, including issuance of a Protective Order.

I. PETITIONS TO INTERVENE

The Atmos Intervention Group ("AIG")¹, Southstar Energy Services LLC ("Southstar"), the Consumer Advocate and Protection Division of the Office of Attorney General ("CAD"), and

¹ According to AIG's petition, its members at the time of filing were Goodyear Tire and Rubber Company (Union City plant), Koch Foods, Berkline, Laughlin Memorial Hospital, Williamson Medical Center, Takoma Adventist Hospital, Maury County Regional Hospital, Mountain States Health Systems (four hospitals) and Wellmont Health System (six hospitals).

Stand Energy Corporation (“Stand”)² all filed *Petitions to Intervene* in this docket. In each petition, the parties asserted that the Petitioners’ legal interests or rights may be affected or determined by this proceeding. 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

Atmos stated that AIG is not a legal entity and requested that the Hearing Officer require AIG to identify the legal entities that are the members composing the intervention group.⁴ In granting the *Petition to Intervene* filed by AIG, the Hearing Officer requested that AIG file a list of its members that compose the intervention group consistent with the format that was provided by AIG in other dockets before the TRA by September 28, 2007.

Stand stated in its *Petition to Intervene* that it is an independent marketer of retail energy, including natural gas and competes with Atmos and/or its affiliate, Atmos Energy Marketing,

² In Docket No. 07-00105, *In Re: Petition of Atmos Energy Corporation for Approval of a General Rate Increase*, Stand also sought intervention and filed documents stating that it had been designated a limited agent of Harrison Construction in connection with natural gas consumption and other pertinent items related to natural gas consumption at facilities owned and operated by Harrison Construction in the State of Tennessee. In that docket, Harrison Construction specifically authorized Stand Energy, via the execution and filing of a *Limited Appointment of Agent* document, to act on its behalf in matters before the Authority, including that rate case. Stand has not, in this docket, filed a *Limited Appointment of Agent* and Harrison Construction has not sought intervention in this matter.

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

⁴ Transcript of Proceedings, p. 4 (September 25, 2007).

LLC.⁵ Stand seeks intervention in this docket and claims that the tariffs filed by Atmos affect the competitive environment for an independent marketer.

The Hearing Officer finds that the petitioners qualify for intervention in this matter without conditions, that the petitions were timely filed, and that the legal interests and/or rights of the AIG, Southstar, the CAD, and Stand may be affected by this docket.⁶ The Petitioners' interventions will not impair the interests of justice or the orderly and prompt conduct of this docket. Further, no objections to the petitions to intervene were raised by any party. Pursuant to Tennessee Code Annotated Section 4-5-310(a), the Hearing Officer grants the petitions to intervene.

II. SCOPE OF ISSUES

A question was raised regarding the scope of the issues in this docket relative to the issues in Docket No. 07-00105.⁷ Counsel for Stand noted that both Stand and the AIG filed, on September 18, 2007, a motion for reconsideration of the hearing officer's order in Docket No. 07-00105 which severed the transportation and asset management issues from that docket.⁸ Counsel further stated that the reconsideration motion also requested that asset management issues pending in Docket No. 07-00105 be heard prior to the consideration of issues in the instant docket. Additionally, the motion requested that any procedural schedule set in the instant docket not conflict with the schedule in Docket No. 07-00105.

The Hearing Officer reminded the parties that in establishing the instant docket the Authority previously determined that there is little overlap between dockets, that the dockets are

⁵ *Petition to Intervene of Stand Energy Corporation*, p. 1 (April 3, 2007).

⁶ The Hearing Officer may impose conditions upon an intervenor's participation in these proceedings at any time subsequent to the granting of an intervention. *See* Tenn. Code Ann. § 4-5-310 (c)

⁷ Transcript of Proceedings, pp. 5-8 (September 25, 2007).

⁸ *Joint Motion Of Stand Energy And Atmos Intervention Group For Reconsideration Of Order Severing The Transportation Tariff and Asset Management Issues* (September 18, 2007).

on different tracks, and that the issues are dissimilar. The Hearing Officer noted, however, that to the extent that there are any schedule conflicts between the two dockets that would interfere with counsel's ability to prepare for Docket No. 07-00105, those conflicts would be taken into consideration.

When further clarification regarding the issues was requested by the AIG's counsel, the Hearing Officer stated that the issues in this docket are those that have arisen from the tariff and other filings in this docket. The Hearing Officer further stated that he would follow the charge received from the Authority regarding the focus of this docket.⁹

On September 27, 2007, the Hearing Officer in Docket No. 07-00105 denied the motion for reconsideration filed by the AIG and Stand.

III. PROCEDURAL SCHEDULE

During the Status Conference, the Hearing Officer distributed a proposed procedural schedule for consideration. He also distributed the proposed schedule from the motion for reconsideration in Docket No. 07-00105. Atmos also submitted a proposed schedule for review. The Hearing Officer recessed to allow the parties an opportunity to review and confer on the proposed procedural schedules.

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

⁹ A Pre-Hearing conference was held in Docket No. 07-00105 on September 27, 2007. Chairman Roberson, in his role as Hearing Officer, identified the issues that were severed from Docket No. 07-00105 to be heard in Docket No. 07-00020. The issues severed are those items included in the filed tariff, including but not limited to, pooling, penalties and imbalances.

procedural schedule attached hereto as **Exhibit A**.¹⁰ The parties agreed to an expeditious schedule in order to quickly bring this docket to conclusion. The following agreements were also reached:

- Atmos agreed to waive any objection to a party submitting more than forty (40) discovery requests.¹¹
- The parties will only require one round of discovery in this docket.¹²
- Any modification to the procedural schedule will be with the consent of all parties.

IV. SUSPENSION OF THE TARIFF

Tenn. Code Ann. § 65-5-103(a) permits the Authority to suspend a tariff where there are changes or alterations and allows the Authority to extend the period of suspension of a tariff for such period as will reasonably enable it to complete its investigation to determine whether the changes or alterations are just and reasonable. Further, Authority Rule 1220-4-1-.06(5) empowers the Authority to suspend a tariff on its own motion or upon the filing of a sufficient protest. The Hearing Officer finds that in the instant docket there are changes or alterations that necessitate the suspension of the tariff until the conclusion of the hearing in this matter.

At the conclusion of the discussions concerning the above matters, the Hearing Officer asked whether there were any further issues to discuss. None being raised, the Hearing Officer adjourned the conference.

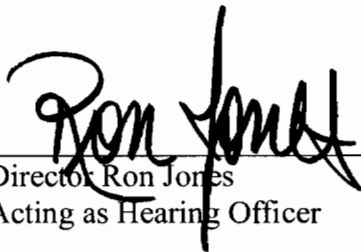
¹⁰ By Agreement, the Company has agreed to the simultaneous filing of the Company's and CAD's Rebuttal Testimony on January 7, 2008 and agrees that it has waived the opportunity to file prefiled written rebuttal of CAD's prefiled rebuttal testimony since such filing will occur simultaneously with the Company's filing of prefiled rebuttal testimony.

¹¹ See Tenn. Comp. R. and Regs. 1220-1-2-.11(5) (Rev. July 2003).

¹² However, the parties stated that they would file a motion for additional discovery and with good cause shown or by agreement of the parties for additional discovery. In the event the parties agree, the Hearing Officer requested that such agreement would be filed jointly in writing, including a written request to modify the procedural schedule.

IT IS THEREFORE ORDERED THAT:

1. The *Petitions to Intervene* filed by the Atmos Intervention Group, Southstar Energy LLC d/b/a Georgia Natural Gas, the Consumer Advocate and Protection Division of the Office of the Attorney General, and Stand Energy Corporation are granted.
2. The procedural schedule attached hereto as **Exhibit A** and the requirements set out herein are adopted.
3. The tariff is suspended until the conclusion of the hearing and final ruling is made in this matter.



Director Ron Jones
Acting as Hearing Officer

EXHIBIT A

ATMOS ENERGY CORPORATION'S TARIFF FILING TO MODIFY AND ADD LANGUAGE REGARDING TRANSPORTATION SERVICE (TARIFF NO. 2007-0021) DOCKET NO. 07-00020

PROCEDURAL SCHEDULE

| | |
|--|---------------------|
| Status Conference | September 25, 2007 |
| Protective Order Due | October 11, 2007 |
| Atmos' Pre-filed Testimony | October 25, 2007 |
| Discovery Requests Filed | November 7, 2007 |
| Responses to Discovery Due | November 27, 2007 |
| Motions to Compel Discovery ¹³ | November 30, 2007 |
| Response to Motions to Compel | December 5, 2007 |
| Hearing Officer's Order | December 7, 2007 |
| Discovery Responses | December 11, 2007 |
| Intervenors' Pre-filed Testimony Due | December 17, 2007 |
| Atmos' and CAPD's Pre-filed Rebuttal Testimony | January 7, 2008 |
| Pre-hearing Conference | January 11, 2008 |
| Hearing on the Merits | January 15-16, 2008 |
| Post Hearing Briefs | January 29, 2008 |

¹³ Motions to Compel will be filed after discovery responses in order to allow the parties to adequately assess if such motions are needed. The parties may wish to review rulings on such motions by the Hearing Officer in Docket No. 05-00258 for additional information and guidance in determining the standards this Hearing Officer uses in evaluating motions to compel.