

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 31, 2007

IN RE:)	
)	
PETITION OF ATMOS ENERGY CORPORATION)	DOCKET NO.
FOR APPROVAL OF TARIFF ESTABLISHING)	07-00081
ENVIRONMENTAL COST RECOVERY RIDER)	

ORDER SUSPENDING TARIFF, GRANTING PETITION TO
INTERVENE AND SETTING A STATUS CONFERENCE

This matter initially came before Director Eddie Roberson, Director Pat Miller and Director Ron Jones, of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on April 16, 2007 for consideration of the *Petition for Approval of Tariff Establishing Environmental Cost Recovery Rider* (“*Petition*”) filed by Atmos Energy Corporation (“Atmos” or the “Company”) on March 29, 2007. During that Authority Conference, the panel voted unanimously to convene a contested case proceeding and to appoint General Counsel or his designee to serve as Hearing Officer for the purpose of preparing the matter for a hearing before the panel, including hearing preliminary matters, suspending the tariff and setting a procedural schedule to completion.

PETITION

On March 29, 2007, Atmos filed its *Petition* in which the Company seeks approval by the Authority of a tariff which would establish an Environmental Cost Recovery Rider (“ECRR”) “to provide a mechanism for the recovery of the deferral costs authorized by the Deferral Order [in Tennessee Public Service Commission Docket No. 94-02529] in a manner comparable to that

proposed by [the Company] in Docket No. 05-00258. . .”¹ In the *Petition*, Atmos states that “the implementation of the ECRR is in the public interest because it provides for the recovery of costs in a manner which is uniformly and fairly applied across all customer classes over a reasonable period of time.”² The *Petition* seeks to have Atmos’ tariff, which would implement the proposed rates, effective as of June 1, 2007.

PETITION TO INTERVENE

On April 27, 2007, the Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”) filed a *Petition to Intervene* in this docket. The Consumer Advocate asserts that the rate increase requested by Atmos may adversely affect consumers. The *Petition to Intervene* alleges that if Atmos’s *Petition* were approved “rates that consumers pay for natural gas utility service would increase by \$904,918.72 annually. The total dollar amount of the requested increase is \$2,714,756.72.”³ The Consumer Advocate seeks intervention, stating that it is authorized to intervene in proceedings to represent the interests of Tennessee consumers pursuant to Tenn. Code Ann. § 65-4-118(c)(2)(A). The Consumer Advocate states that it can protect the public interest in this regard only by participating in this proceeding. No party or person has filed an objection to or opposed the Consumer Advocate’s intervention request.

Tenn. Code Ann. § 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;

¹ *Petition for Approval of Tariff Establishing Environmental Lost Recovery Rider* at 4 (March 29, 2007).

² *Id.* at 6.

³ *Petition to Intervene* at 2 (April 27, 2007).

(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.

Under TRA Rule 1220-1-2-.06, any party opposing a motion in a contested case must file and serve a response to the motion within seven days of service of the motion.

The Hearing Officer finds that the legal rights and interests of Tennessee consumers may be determined in this proceeding and that the Consumer Advocate's petition is timely and its intervention will not impair the orderly and prompt conduct of these proceedings. For these reasons and applying the standards set forth in Tenn. Code Ann. § 4-5-310(a), the Hearing Officer grants the Consumer Advocate's *Petition to Intervene*.

SUSPENSION OF TARIFF

The *Petition* filed by Atmos on March 29, 2007, seeks an effective date of June 1, 2007 for the proposed tariff. Tenn. Code Ann. § 65-5-103 permits the Authority to suspend any increase, change, or alteration initially for a period of three months from the proposed effective date of the increase, change, or alteration. Because the hearing and determination of Atmos's proposed increase, change or alteration in its tariff cannot be completed by the proposed effective date of the tariff, the Hearing Officer hereby suspends the effective date of the tariff filed with the *Petition* for a period of three months from the proposed effective date through **September 1, 2007**.

STATUS CONFERENCE

In an effort to set this matter for a timely hearing, the Hearing Officer hereby sets a Status Conference for **1:00 p.m. on Tuesday, June 12, 2007** to establish a procedural schedule, enter a

protective order and discuss other preliminary matters. A separate Notice will issue setting forth specific matters for consideration during the Status Conference.

IT IS THEREFORE ORDERED THAT:

1. The Consumer Advocate and Protection Division, Office of the Attorney General, is hereby granted leave to intervene and receive copies of any notices, orders or other documents herein.
2. The *Petition* and the effective date of the tariff filed with the *Petition* by Atmos Energy Corporation is hereby suspended for a period of three months from the proposed effective date or through **September 1, 2007**.
3. A Status Conference will be held at **1:00 p.m. on Tuesday, June 12, 2007**.


J. Richard Collier, Hearing Officer