

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 27, 2012

IN RE:

PETITION OF ATMOS ENERGY
CORPORATION FOR A GENERAL RATE
INCREASE

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DOCKET NO.
12-00064

ORDER GRANTING PETITION TO INTERVENE AND
MOTION FOR MORE THAN FORTY DISCOVERY REQUESTS,
AND ESTABLISHING A PROCEDURAL SCHEDULE

On June 22, 2012, Atmos Energy Corporation ("Atmos") filed a *Petition for Rate Change*, requesting an increase in its rates of approximately \$10.8 million annually. At the Authority Conference held on August 20, 2012, the panel of directors assigned to this docket voted unanimously to appoint a Hearing Officer to prepare this matter for hearing. The Hearing Officer held a Status Conference following the August 20, 2012 Authority Conference, at which both Atmos and the Consumer Advocate and Protection Division of the Attorney General's Office ("Consumer Advocate") had representatives present and participating.

Petition to Intervene

On July 11, 2012, the Consumer Advocate filed a *Petition to Intervene*, asserting that "[o]nly by participating in this proceeding can the Consumer Advocate work adequately to protect the interests of consumers."¹ Atmos filed a response on July 17, 2012, stating that it did not oppose the Consumer Advocate's intervention in this matter.² Atmos reaffirmed its lack of opposition to the intervention request at the Status Conference on August 20, 2012.

¹ *Petition to Intervene*, p. 2 (July 11, 2012).

² *Response to Petition to Intervene*, p. 1 (July 17, 2012).

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;

(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.

The Hearing Officer finds that the Consumer Advocate's *Petition to Intervene* was timely filed and served and substantiated that the legal interests of the intervenor may be determined in this matter. Therefore, applying the standards set forth in Tenn. Code Ann. § 4-5-310(a), the Hearing Officer grants the Consumer Advocate's *Petition to Intervene*.

Motion for Leave to Issue More than Forty Discovery Requests

On August 21, 2012, the Consumer Advocate filed an *Unopposed Motion for Leave to File More than Forty Discovery Requests* and a memorandum in support of its motion pursuant to TRA Rule 1220-1-2-.11(5)(a). The Consumer Advocate issued forty-one discovery requests on July 21, 2012. TRA Rule 1220-1-2-.11(5)(a) provides:

No party shall serve on any other party more than forty (40) discovery requests including subparts without first having obtained leave of the Authority or a Hearing Officer. Any motion seeking permission to serve more than forty (40) discovery requests shall set forth the additional requests. The motion shall be accompanied by a memorandum establishing good cause for the service of additional interrogatories or request for production. If a party is served with more than forty (40) discovery requests without an order authorizing the same, such party need only respond to the first forty requests.

Atmos filed its responses to the Consumer Advocate's forty-one requests, without objection, on August 17, 2012. Atmos stated at the Status Conference that it did not object to the additional request. On August 22, 2012, Atmos filed the *Response of Atmos Energy Corporation to Intervenor's Motion for Leave to Issue More than Forty Discovery Requests*. In that response, Atmos states that the Consumer Advocate "correctly notes that Atmos does not oppose its post-hoc motion for leave to include more than 40 discovery requests" but notes that it "reserves all rights with respect to any future discovery requests that may be propounded by the Consumer Advocate."³

In its *Unopposed Motion for Leave to File More than Forty Discovery Requests*, the Consumer Advocate notes that, following the filing of Atmos' *Petition for a Rate Change*, Atmos and the Consumer Advocate entered into informal procedural discussions in order to advance the docket in the absence of a quorum of TRA Directors and the convening of a contested case.⁴ It was during this period that the Consumer Advocate issued its additional discovery request. The Hearing Officer finds that the Consumer Advocate has established good cause and, given the absence of an objection by Atmos regarding the first round of discovery, grants the *Unopposed Motion for Leave to File More than Forty Discovery Requests*.

Procedural Schedule

Atmos and the Consumer Advocate presented a draft procedural schedule at the Status Conference on August 20, 2012. After discussion, the Hearing Officer established the following schedule:

³ *Response of Atmos Energy Corporation to Intervenor's Motion for Leave to Issue More than Forty Discovery Requests*, p. 1 (August 22, 2012).

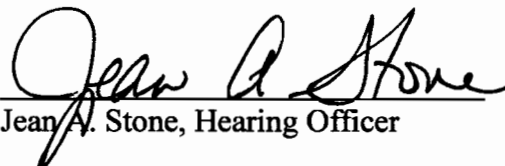
⁴ *Unopposed Motion for Leave to File More than Forty Discovery Requests*, p. 1 (August 21, 2012).

July 20, 2012	First Round of Discovery Due
August 17, 2012	Discovery Responses Due
September 10, 2012	Petitions to Intervene Due for any Intervenor who wishes to file Pre-filed Testimony
September 25, 2012	Intervenor's Pre-filed Testimony Due
October 1, 2012	Second Round of Discovery Due
October 10, 2012	Discovery Responses Due
October 29, 2012	Atmos' Pre-filed Rebuttal Testimony Due
November 1, 2012	Pre-hearing Conference
November 7-9, 2012	Hearing on the Merits
November 21, 2012	Post-hearing Briefs Due

All filings are due at 2:00 p.m. on the date indicated. The parties may request a Status Conference at any time. The hearing on the merits will be held on November 7-9, 2012, with a notice of hearing to be issued prior to that date.

IT IS THEREFORE ORDERED THAT:

1. The *Petition to Intervene* filed by the Consumer Advocate and Protection Division is hereby granted;
2. The *Unopposed Motion for Leave to File More than Forty Discovery Requests* is hereby granted regarding the first round of discovery requests; and
3. A procedural schedule is established, as set forth herein.


Jean A. Stone, Hearing Officer