

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 7, 2015

IN RE:

PETITION OF ATMOS ENERGY CORPORATION FOR A  
GENERAL RATE INCREASE UNDER T.C.A. 65-5-103(A)  
AND ADOPTION OF AN ANNUAL RATE REVIEW  
MECHANISM UNDER T.C.A. 65-5-103(D)(6)

)  
) DOCKET NO.  
) 14-00146  
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ORDER GRANTING CONSUMER ADVOCATE'S PETITION TO INTERVENE

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This matter is before the Hearing Officer of the Tennessee Regulatory Authority ("Authority" or "TRA") upon a *Petition to Intervene* filed by the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General ("Consumer Advocate") on December 23, 2014.

**BACKGROUND**

On October 10, 2014, in Docket No. 14-00081, the panel assigned to that docket considered Atmos Energy Corporation's ("Atmos" or "Company") *Petition to Adopt Statutory Annual Review of Rates and Tariff with Procedures for Statutory Annual Rate Review*.<sup>1</sup> The panel determined that Atmos had not met all of the statutory requirements to be eligible for annual rate review. Specifically, Atmos expressly did not adopt a ratemaking methodology in the Settlement Agreement of its' most recent rate case.<sup>2</sup> Based on its findings, the panel granted a motion to dismiss filed by the Consumer Advocate and dismissed Atmos' petition.<sup>3</sup>

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<sup>1</sup> See *In re: Petition of Atmos Energy Corporation to Establish an Annual Rate Review Mechanism Pursuant to Tenn. Code Ann. 65-5-103(D)(6)* (August 28, 2014).

<sup>2</sup> *Id.* at 13-15.

<sup>3</sup> *Id.* at 18.

On November 25, 2014, Atmos filed a *Petition* containing two parts, a general rate case and a request to opt into an annual rate review mechanism pursuant to Tenn. Code Ann. § 65-5-103(a). In its *Petition*, Atmos seeks to have its rates reviewed annually based on the methodology adopted in the general rate case portion of this docket.

### **PETITION TO INTERVENE**

The Consumer Advocate filed a *Petition to Intervene* on December 23, 2014 seeking to intervene in these proceedings pursuant to Tenn. Code Ann. § 65-4-118, which qualifies the Consumer Advocate to intervene in proceedings before the Authority in order to represent the interests of Tennessee consumers of public utility services.<sup>4</sup> The Consumer Advocate asserts that its intervention is necessary because the interests of consumers may be affected by the increases in rates under the general rate case and the potential ongoing increases in rates under the annual rate review part of the *Petition*. In conclusion, the Consumer Advocate states that only by participating in this proceeding can it work to adequately protect the interests of consumers.<sup>5</sup>

On December 29, 2014, Atmos filed its *Response of Atmos Energy Corporation to Consumer Advocate's Petition to Intervene* stating it did not oppose the Consumer Advocate participating in this docket as an intervenor.

### **FINDINGS & CONCLUSIONS**

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria to be considered in reviewing a petition to intervene in Authority proceedings:

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<sup>4</sup> Tenn. Code Ann. § 65-4-118(b)(1) states, "The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may, with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the authority or any other administrative, legislative or judicial body and initiate such proceeding, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and the rules of the authority."

<sup>5</sup> *Petition to Intervene* (December 23, 2014).

(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.<sup>6</sup>

In addition, in situations that do not satisfy the standards of Tenn. Code Ann. § 4-5-310(a), the Hearing Officer has discretion to grant a petition to intervene upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.<sup>7</sup> Further, the Hearing Officer may, at any time, limit or impose conditions upon an intervenor's participation.

Upon due consideration, the Hearing Officer finds that the *Petition to Intervene* is timely-filed, the Consumer Advocate qualifies as an intervenor under law, and that its intervention should not impair the interests of justice or the orderly and prompt conduct of the proceedings. Further, Atmos states it does not object to the Consumer Advocate participating as an intervenor in these proceedings. For these reasons, the Hearing Officer finds that the Consumer Advocate's request to intervene in these proceedings should be granted.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition to Intervene* filed by the Consumer Advocate and Protection

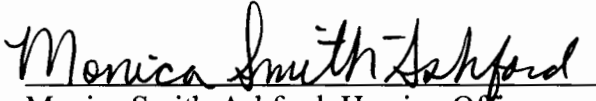
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<sup>6</sup>Tenn. Code Ann. § 4-5-310(a); *see also* Tenn. Code Ann. § 65-2-107: "All persons having a right under the provisions of the laws applicable to the authority to appear and be heard in contested cases as defined in this chapter shall be deemed parties to such proceedings for the purposes of this chapter. In addition, the authority may upon motion allow any interested person to intervene and become a party to any contested case."

<sup>7</sup> Tenn. Code Ann. § 4-5-310(b).

Division of the Office of the Attorney General is granted.

2. The Consumer Advocate and Protection Division of the Office of the Attorney General may intervene and participate as a party in this proceeding and, as such, shall receive copies of any notices, orders, or other documents filed herein.

  
Monica Smith-Ashford, Hearing Officer