

NEAL & HARWELL, PLC

LAW OFFICES
150 FOURTH AVENUE, NORTH
SUITE 2000
NASHVILLE, TENNESSEE 37219-2498

TELEPHONE
(615) 244-1713

FACSIMILE
(615) 726-0573

WWW.NEALHARWELL.COM

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JAMES F. NEAL (1929-2010)

AUBREY B. HARWELL, JR.
JON D. ROSS
JAMES F. SANDERS
THOMAS H. DUNDON
RONALD G. HARRIS
ALBERT F. MOORE
PHILIP N. ELBERT
JAMES G. THOMAS
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A. SCOTT ROSS
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CHANDRA N.T. FLINT
STEPHEN M. MONTGOMERY
JEFF H. GIBSON
J. ISAAC SANDERS
BLIND AKRAWI
MEGAN N. DEARDORFF
MARIE TEDESCO SCOTT
WILLIAM J. HARBISON
JEFFREY A. ZAGER

OF COUNSEL
LARRY W. LINDEEN
CHARLES F. BARRETT

Hon. Herbert H. Hilliard, Chairman
Tennessee Regulatory Authority
502 Deaderick Street, 4th Floor
Nashville, TN 37243

RE: *Notice of Filing Depreciation Study and Request for Approval of New
Depreciation Rates*
Tennessee Regulatory Authority, Docket Nos. 14-00146 and 15-00089

Dear Chairman Hilliard:

Atmos Energy respectfully responds to the Consumer Advocate's November 30, 2015, correspondence in this matter.

Atmos Energy initiated these proceedings pursuant to the following provision of the Company's approved Annual Review Mechanism (ARM) Tariff:

Depreciation expenses shall reflect the depreciation rates approved by the Authority in the Company's most recent general rate case. If and when the Company performs a new depreciation study, the new study will be filed with the Authority. Following any appropriate discovery and rebuttal, and conditioned upon approval by the Authority of the new rates, ***the Company shall calculate depreciation expenses using the newly approved rates in its subsequent Annual ARM Filing.***

Atmos Energy Tariff page 34.5, item B.b. (emphasis added).

Having conducted a new depreciation study, the Company followed the mandates of its approved ARM Tariff and filed that study with the Authority. Also pursuant to the ARM Tariff, the Company asked that the new depreciation rates be approved for use in the Company's subsequent Annual ARM Filing. Specifically, the Company's Notice of Filing Depreciation Study and Request for Approval of New Depreciation Rates requested the following relief:

1. That the Authority approve the new depreciation rates as set forth in the contemporaneously-filed depreciation studies;
2. That Atmos begin booking the new depreciation rates as of the date that they are finally approved;
3. That the Company will calculate depreciation expenses using the newly approved rates in its next Annual ARM Filing, due to be filed on February 1, 2016; and
4. That the Authority issue its final ruling on these matters no later than the November Authority conference so as to permit preparation of the scheduling supporting the February 1, 2016 Annual ARM Filing.

Notice of Filing Depreciation Study and Request For Approval of New Depreciation Rates at 2.

There has been no opposition to the relief requested in the Company's filing. Indeed, no party has intervened in this docket, the deadline for petitions to intervene having passed on November 16. There is no objection to the new depreciation rates (which result in a net **reduction** in the Company's revenue requirement), and the Company's filing and the relief requested are fully authorized by the terms of the approved ARM tariff. Cutting to the chase, therefore, with no opposition having been filed, the relief requested in the Company's filing should be granted. The Authority's Order should include the specific items of relief set forth in items 1 through 4 above.

As it relates to the resolution of this matter, further discussion should not be necessary. The Authority need not proceed any further in its consideration of this matter.

For future reference, however, Atmos Energy feels compelled to explain its strenuous disagreement with the argument advanced by the Consumer Advocate's November 30 letter under the heading "Concerns About Methodologies." The upshot of the Advocate's position is that the Company's approved and filed ARM Tariff, and all of the detailed methodologies that were adopted in Docket No. 14-00146, become unenforceable if the Authority assigns a docket number other than 14-00146 to any ARM filing. As explained below, the Company strongly disagrees with the Advocate's position, which is not supported by the Company's approved ARM Tariff, or by the Stipulation and Settlement Agreement in Docket No. 14-00146.

Preliminarily, Atmos Energy will take this opportunity to state unequivocally that for its part the Company intends to comply with the terms of the approved ARM Tariff and the 14-00146 Settlement Agreement without regard to what docket number the TRA may assign to any of the Company's ARM filings. The Company hopes the Consumer Advocate ultimately decides to follow the same course.

Before filing the depreciation study at issue here, Atmos Energy heard that the Advocate might take the position it has now advanced. In order to avoid an improvident legal fight with the Advocate, therefore, Atmos Energy made its depreciation filing in Docket No. 14-00146. Atmos Energy explained that it had done so in order to avoid a battle over the Advocate's position. However, the Authority chose to assign a new docket number to the Company's depreciation filing. It is the Advocate's position that the Authority's action in striking the number "14-00146" from the face of the Atmos Energy pleading and replacing it with the number "15-00089" renders the ARM Tariff and Settlement Agreement methodologies from Docket No. 14-00146 wholly inapplicable. The Advocate contends, therefore, that the Authority has no power in this docket to implement the provisions of the Atmos Energy ARM Tariff – specifically, that the Authority cannot approve the Company's new depreciation rates for use in connection with its future ARM filings. The Advocate's argument should be rejected out of hand.

Atmos Energy pursued Docket No. 14-00146 in order to obtain and implement an approved ARM tariff, as authorized by Tenn. Code Ann. § 65-5-103(d)(6). In the end, the Authority approved, pursuant to a settlement, a modified ARM Tariff, which the Company was directed to file, and which has been filed, and which became effective on June 1, 2015. In accordance with the terms of the approved ARM Tariff, the Company is directed to calculate the components of its revenue requirements using the "Approved Methodologies," which are defined by the ARM Tariff as "the methodologies approved and adopted by the Authority in Docket No. 14-00146 or in any subsequent general rate case, whichever is more recent . . ." Tariff Pages 34.1, 34.5. Nothing in the Tariff requires that the Authority apply a specific docket number to any Atmos Energy ARM filing. And nothing in the Tariff states that it will cease to be effective, or should be applied differently, to pleadings that bear a docket number other than 14-00146. The ARM Tariff simply does not support the Advocate's position.

Nor is the Advocate's position a fair reading of the Settlement Agreement itself. In the Agreement, the parties agreed that the Company could opt into an annual review mechanism, agreed upon the terms of an ARM Tariff (attached as an exhibit to the Agreement), and agreed upon a detailed set of ratemaking methodologies and ARM procedures (covering 24 pages of the Agreement and dozens of pages of exhibits, schedules and attachments). In paragraph 19, the Parties further agreed as follows:

19. The Parties acknowledge that Atmos Energy brought this matter, *inter alia*, to determine rates in a general rate case and to establish adopted ratemaking methodologies sufficient to enable implementation of the annual review mechanism established by Tenn. Code Ann. § 65-5-103(d)(6). The Parties jointly request that the Authority adopt the ratemaking methodologies set forth in this Settlement Agreement for the limited purpose of implementing an annual review mechanism under Tenn. Code Ann. § 65-5-103(d)(6) under this Docket, and approve the annual review mechanism and ARM Tariff consistent with the terms and requirements established by this Settlement Agreement. ***The methodologies adopted by the Authority as a result of the above request shall be***

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utilized in preparing and evaluating each Annual ARM Filing and Annual Reconciliation filing contemplated under this Docket.

Stipulation and Settlement Agreement at 29 (emphasis added). Read sensibly and in context, references to “this Docket” simply limit the parties’ Agreement to the matters that were at issue in Docket No. 14-00146, i.e. to the adoption of an ARM Tariff and the approval of ratemaking methodologies to be utilized in applying the agreed ARM Tariff in future years. The Agreement was not drafted to include a self-destruct provision that would render it unenforceable if a different docket number happened to be placed on some future ARM filing. That kind of uncertainty and invitation to further litigation is exactly what the Agreement and the ARM Tariff were intended to avoid.

The Settlement Agreement and the approved ARM Tariff are binding and enforceable. They do not lose their force or effect if some future ARM filing may be given a docket number other than 14-00146. For its part, Atmos Energy intends to abide by the terms of the Agreement and the ARM Tariff without regard to the docket number that may be assigned to any given filing. However, if it will avoid an expensive battle with the Consumer Advocate, Atmos Energy is happy to include the 14-00146 docket number on its future ARM filings, as it did in this case. What the Company must resist, however, is any suggestion that the enforceability of its ARM Tariff, or the methodologies to be employed in making its ARM filings, will depend upon the docket number that may be assigned to any given filing. Changing a docket number should not cause the parties and the Authority to lose all of the time and money they have invested in establishing an ARM tariff.

Best regards.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Scott Ross', with a stylized, cursive script.

A. Scott Ross

ASR:prd

cc: Wayne M. Irvin, Esq.