

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 20, 2016

IN RE:

PETITION OF ATMOS ENERGY CORPORATION
TO REVISE PERFORMANCE BASED
RATEMAKING MECHANISM TARIFF

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DOCKET NO.
16-00028

ORDER GRANTING THE PETITION TO INTERVENE FILED BY
CONSUMER ADVOCATE

This matter is before the Hearing Officer of the Tennessee Regulatory Authority (“Authority” or “TRA”) to consider the *Petition to Intervene* filed by the Consumer Protection and Advocate Division of the Office of the Attorney General (“Consumer Advocate”) on March 21, 2016.

RELEVANT BACKGROUND

Atmos Energy Corporation (“Atmos”) filed a *Petition to Revise Performance Based Ratemaking Mechanism Tariff Rider* on March 15, 2016. The proposed revisions are based on recommendations made by an independent consultant’s review of Atmos’ Performance-Based Ratemaking Mechanism (“PBRM”) plan.

During the regularly scheduled Authority Conference held on April 15, 2016, the voting panel of Directors assigned to this docket appointed General Counsel or her designee to act as Hearing Officer to prepare this matter for hearing.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On March 21, 2016, the Consumer Advocate filed a *Petition to Intervene* seeking to intervene in the docket pursuant to Tenn. Code Ann. § 65-4-118, which qualifies the Consumer

Advocate to represent the interests of Tennessee consumers of public utility services in proceedings before the Authority. According to the Consumer Advocate, “[c]onsumers have an interest in ensuring that the proposed recommendations create the proper incentives for Atmos to pursue optimal pricing through the establishment of appropriate benchmarks and savings-sharing ratios between Atmos and consumers.”¹ Further, the Consumer Advocate asserts that only by participating in this docket can it adequately protect the interests of consumers. Atmos does not oppose the Consumer Advocate’s intervention in these proceedings.

FINDINGS & CONCLUSIONS

Tenn. Code Ann. § 4-5-310 establishes 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 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.
- (b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.²

Although it is not an automatic or absolute right to participate in proceedings before the Authority, Tenn. Code Ann. § 65-4-118(b)(1) provides a general basis for the qualification of the Consumer Advocate to be permitted to intervene as a party to represent the interests of Tennessee

¹ *Petition to Intervene*, p. 2 (March 21, 2016).

² Tenn. Code Ann. § 4-5-310.

public utility consumers. It provides as follows:

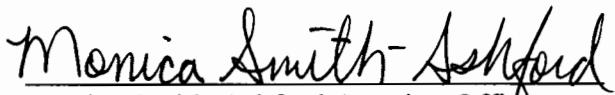
The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may, with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the authority or any 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.³

In the instant proceeding, consumers have an interest in ensuring that they fairly share in any savings by Atmos through its PBRM. As Atmos' *Petition* will directly impact its customers, the Hearing Officer finds that there is a sufficient factual basis to find that legal rights or interests held by those consumers may be determined in this proceeding.

THEREFORE, upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of Atmos' customers may be determined in this proceeding. Further, the Hearing Officer finds that the Consumer Advocate qualifies under law as an intervenor for the purpose of representing those consumer interests, there is no opposition to its intervention, and its *Petition to Intervene* was timely-filed and should not impair the interests of justice or the orderly and prompt conduct of the proceedings. For these reasons, the Hearing Officer concludes that the Consumer Advocate's *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

The *Petition to Intervene* filed by the Consumer Protection and Advocate Division of the Office of the Attorney General is granted. The Consumer Protection and Advocate 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

³ Tenn. Code Ann. § 65-4-118(b)(1).