

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 28, 2016

IN RE:

**PETITION OF ATMOS ENERGY FOR APPROVAL
OF 2016 ANNUAL RECONCILIATION FILING**

)
)
)
)
)

**DOCKET NO.
16-00105**

**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 September 21, 2016.

RELEVANT BACKGROUND

On September 1, 2016, Atmos Energy Corporation (“Atmos”) filed a *Petition of Atmos Energy for Approval of 2016 Annual Reconciliation Filing* (“*Petition*”). The *Petition* initiates the annual reconciliation process in connection with Atmos’ alternative review mechanism (“ARM”) approved by the Authority in TRA Docket No. 14-00146. This filing reconciles actual results to the projected amounts used in the forward-looking test year amounts in Docket No. 14-00146.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On September 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, “[t]he interests of consumers,

including without limitation the proposed increase in revenues to be included in any adjustment to rates charged to customers in the Utility's next ARM filing, may be affected by determinations and orders made by the Authority...."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 public utility consumers. It provides as follows:

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

² Tenn. Code Ann. § 4-5-310.

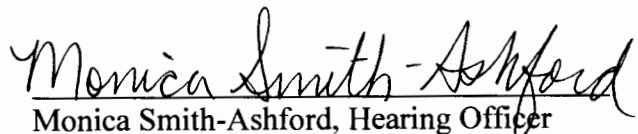
The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may, with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the authority or any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

Because Atmos' *Petition* will directly impact its customers through additional revenue or reduction in rates for the Company to earn its authorized return on equity, 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).