BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 14, 2017

IN RE:	)	
	)	
PETITION OF ATMOS ENERGY CORPORATION	)	**DOCKET NO.**
FOR APPROVAL OF ITS 2017 ANNUAL RATE	)	**17-00012**
REVIEW FILING PURSUANT TO TENN. CODE	)	
ANN. § 65-5-103(D)(6)	)	

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 6, 2017.

RELEVANT BACKGROUND

On January 31, 2017, Atmos Energy Corporation ("Atmos") filed the *Petition of Atmos Energy for Approval of 2017 Annual Rate Review Filing Pursuant to Tenn. Code Ann. §65-5-103(d)(6)* ("*Petition*"). Atmos' *Petition* for its 2017 Annual Review Mechanism requests an increase in rates to be paid by its customers and also, contains two deviations from the Approved Methodologies defined in the *Order Approving Settlement* in Docket No. 14-00146 and the *Order Approving 2016 Annual Rate Review Filing* in Docket No. 16-00013.

CONSUMER ADVOCATE'S *PETITION TO INTERVENE*

On March 6, 2017, 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. The Consumer Advocate maintains that:

> [t]he interests of consumers, including without limitation the proposed increase in rates to be paid by consumers under the *Petition*, may be affected by determinations and orders made by the Authority with respect to (i) the interpretation, application, and/or implementation of Tenn. Code Ann. § 65-5-103(a), Tenn. Code Ann. § 65-5-103(d), and other relevant statutory and regulatory provisions, (ii) the review and analysis of the documentation, financial spreadsheets, and materials provided by Atmos Energy, and (iii) the interpretation, application and/or implementation of the terms and conditions of the Authority's Orders in TRA Docket Nos. 14-00146, 15-00089, 16-00013, and 16-00105, as well as the related settlement agreements as applicable in those Dockets."[1]

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent 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:
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> > (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

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[1] *Petition to Intervene*, p. 2 (March 6, 2017).

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:

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 an increase in rates, and the *Petition* also contains deviations to the Approved Methodologies proposed by Atmos and the Consumer Advocate and adopted by the Authority, 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
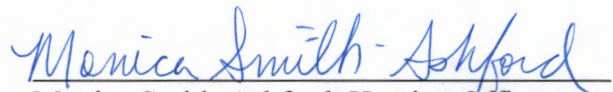
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[2] Tenn. Code Ann. § 4-5-310.
[3] Tenn. Code Ann. § 65-4-118(b)(1).

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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