

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 3, 2017

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

ORDER APPROVING 2017 ANNUAL RATE REVIEW FILING

This matter came before Chairman David F. Jones, Commissioner Herbert H. Hilliard and Commissioner Kenneth C. Hill of the Tennessee Public Utility Commission (“TPUC” or the “Commission”), the voting panel assigned to this docket, at a regularly scheduled Commission Conference held on May 23, 2017, for consideration of the 2017 Annual Rate Review Mechanism (“ARM”) tariff filing (“*Petition*” or “2017 ARM Filing”) of Atmos Energy Corporation (“Atmos” or the “Company”).

BACKGROUND AND 2016 ARM FILING

In Docket No. 14-00146, the Commission approved a *Stipulation and Settlement Agreement* between Atmos and the Consumer Protection and Advocate Division of the Office of the Attorney General and Reporter (“Consumer Advocate”) implementing an ARM under Tenn. Code Ann. § 65-5-103(d)(6) for Atmos.¹ This mechanism allows for annual rate reviews by the Commission in lieu of a general rate case.² Pursuant to the *Order Approving Settlement*, the twelve-month period ending September 30th of each year prior to the annual ARM filing date of February 1 is to be used

¹ See *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, *Order Approving Settlement* (November 4, 2015) (hereinafter *Atmos Rate Case*, Docket No. 14-00146, *Order Approving Settlement*).

² Tenn. Code Ann. § 65-5-103(d)(6).

as the test year, with rates to be established based on a forward-looking test year for the twelve-month period ending May 31st of each following year.³ Additionally, the *Order Approving Settlement* required that the Company use the authorized return on equity as established in Docket No. 14-00146 or any subsequent general rate case.⁴

As part of the *Stipulation and Settlement Agreement* in Docket No. 14-00146, the Company agreed to submit with its annual ARM filing an attestation from a Company officer affirming the following:

1. That the Company's Annual ARM filing has been prepared in accordance with the methodologies approved in the *Stipulation and Settlement Agreement*, or that any deviation from them has been disclosed and explained in a document attached to an affidavit;
2. That the use of any new methodologies has been disclosed;
3. That all new matters have been disclosed;
4. That the Variance Report will identify and explain all rate differences between the current year and the prior year exceeding 5% and \$30,000 and will contain all matters required by the *Stipulation and Settlement Agreement*;
5. That no disallowed items have been included in the filing;
6. That there have been no additions, deletions or modifications to the accounts or subaccounts; and
7. That there have been no changes in the method of accounting or estimating of any account or subaccount utilized in the filing.⁵

In addition to the annual rate review filing by no later than February 1 of each year, the Company must also file an Annual Reconciliation to the authorized return on equity by

³ *Atmos Rate Case*, Docket No. 14-00146, *Order Approving Settlement*, pp. 5-6 (November 4, 2015).

⁴ *Id.*

⁵ *Id.* at 6.

September 1st of each year.⁶ This filing is required to reconcile actual amounts to the Company's authorized return on equity for the forward-looking test year that immediately completed, inclusive of interest at the overall cost of capital compounded for two years.⁷ The resulting rates will be effective on bills rendered on or after June 1st.⁸

In Docket No. 16-00013, the Company's 2016 Annual Rate Review Petition was approved.⁹ Prior to the filing of the 2017 ARM Filing in this docket, the Company and the Consumer Advocate submitted a settlement agreement to resolve the 2016 annual reconciliation filing in Docket No. 16-00105 which was approved by the Commission on January 17, 2017.¹⁰

On January 31, 2017, Atmos filed the *Petition* for the 2017 ARM filing. Atmos submitted that the filing was made pursuant to the requirements of the *Order Approving Settlement* in Docket No. 14-00146 and the *Order Approving Settlement Agreement* in Docket No. 16-00105.¹¹ On March 6, 2017, the Consumer Advocate filed a *Petition to Intervene* in the Docket which was granted by the Hearing Officer in an Order dated March 14, 2017. On March 28, 2017, the Hearing Officer issued her *Order Establishing Procedural Schedule*, and the parties engaged in discovery.

POSITIONS OF THE PARTIES

Atmos

In a pre-filed sworn certification as part of the *Petition*, Mr. J. Kevin Akers, President, Kentucky Mid-States Division, certifies on behalf of Atmos, that (1) no New Matters are introduced; (2) all variances as required are disclosed; (3) no Disallowed Items have been included; (4) there have been no additions, deletions, or modifications to the accounts or subaccounts; (5)

⁶ *Id.* at 5.

⁷ *Id.*

⁸ *Id.* at 7.

⁹ See *In re: Petition of Atmos Energy Corporation for Approval of Its 2016 Annual Rate Review Filing Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)*, Docket No. 16-00013, *Order Approving 2016 Annual Rate Review Filing*, (June 13, 2016).

¹⁰ See *In re: Petition of Atmos Energy Corporation for Approval of 2016 Annual Reconciliation Filing ("ARM") Under T.C.A. § 65-5-103(d)(6)*, Docket No. 16-00105, *Order Approving Settlement Agreement* (February 2, 2017).

¹¹ Gregory K. Waller, Pre-filed Direct Testimony, pp. 5-6 (January 31, 2017).

there has been no change in accounting; (6) budgeting and forecasting methodologies are consistent with approved methodologies, other than two deviations which are described in an attachment to the certification and also addressed by Mr. Gregory K. Waller's pre-filed testimony; and (7) the costs included for recovery have been prudently incurred.¹²

Mr. Gregory K. Waller submitted pre-filed direct testimony supporting the revenue requirement schedules, relied-upon files and other contents of the filing. Mr. Waller attests to a revenue deficiency of \$2,199,886 for the attrition year ending May 31, 2018.¹³ Other than the deviations discussed later in his testimony, he asserts all calculations are consistent with approved previously methodologies. In support of Atmos' request, Schedules 1 through 11 provide the historic base year and forward looking attrition year cost of service, gas cost expense, revenues, Operation and Maintenance ("O&M") expense, depreciation expense, taxes other than income taxes, return on rate base, income tax, allowance for funds used during construction ("AFUDC") and interest on customer deposits.

Atmos forecasts \$112,252,003 in revenue for the attrition year ending May 31, 2018, with \$40,904,923 gas costs projected for the attrition year. Pursuant to the approved methodologies, an adjustment was made to gas costs to remove rent for inter-company leased storage property. O&M expenses are projected to be \$20,628,872 for the attrition year. This is a decrease of \$1,199,457 from the base year and is primarily due to removal of sub-accounts related to pension accruals and incentive compensation.¹⁴

According to Mr. Waller, there are two deviations to the approved methodologies for rate base made in accordance with the ARM tariff.¹⁵ First, the settlement agreement resolving Docket No. 16-00105 required the Company to propose a change in methodology and remove incentive

¹² J. Kevin Akers, Pre-Filed Certificate, pp. 1-3 (January 31, 2017).

¹³ Gregory K. Waller, Pre-filed Direct Testimony, p. 4 (January 31, 2017).

¹⁴ *Id.* at 8.

¹⁵ *Id.* at 11.

compensation going forward and restate the cumulative balance to reflect amortization of prior years' removals.¹⁶ Second, the Company's *Petition* proposes an allocation of two pools of certain shared plan assets which Atmos now recognizes should have separate allocators. Atmos Energy Atmos Marketing ("AEAM") consists of shared assets that do not support Atmos Pipeline Texas, the Company's regulated intrastate pipeline, and the Align system ("ALGN"), consisting of primarily software, supports other regulated divisions, excluding Tennessee operations.¹⁷ The Company provided workpapers outlining the calculations used to determine the two new allocators for AEAM and ALGN. Since Tennessee customers are not using the ALGN billing system there is no allocation of these costs to Tennessee at this time. The Company projects that in the future, however, that 124 customers in Tennessee will be served by ALGN and at that time an allocation will be made.¹⁸

During 2016, the Company sold Atmos Energy Marketing ("AEM") to CenterPoint Energy Services. AEM owned three buildings with the associated land that was leased to the Company and not included in the sale. Therefore, effective November 1, 2016, the gross plant and associated accumulated depreciation was transferred to the Tennessee operations of the Company's Kentucky/Mid-States Division. In the past, the approved methodologies required the Company to make accounting adjustments and treat these former inter-company leased properties as if they were owned by the Company. With the sale and transfer, the adjustments now are permanent to recognize the Company's ownership of the assets and manual adjustments are no longer necessary. Because there were previous adjustments for these assets, the permanency of the transaction has no material impact on the Company's revenue requirement.¹⁹

¹⁶ *Id.* at 12-13.

¹⁷ *Id.* at 13-14.

¹⁸ *Id.*

¹⁹ *Id.* at 14-15.

Based on the approved methodologies, Cost of Capital is based on the capital structure, debt cost and a 9.80% rate of return. Further, in accordance with approved methodologies, the actual equity balance and long-term debt balance at the end of September 30, 2016 and a twelve month average of the short-term debt balance for the twelve months ending September 30, 2016 is utilized.²⁰ Finally, the Annual Reconciliation Revenue Requirement for the forward looking test year ending May 31, 2018, are distributed to all customer classes and rate schedules consistent with the ARM tariff and approved methodologies.²¹

Following the intervention of the Consumer Advocate and during informal discovery, the Company indicated it did not oppose a rate-making adjustment that decreased depreciation expense to recognize the Commission's previous disallowance of incentive compensation that reduced the requested revenue requirement by \$72,044.²²

Consumer Advocate

The Consumer Advocate agrees with the adjustments made by Atmos in response to the Consumer Advocate's data request 2-1, and recommends approval of the rates proposed by Atmos in its revised filing.²³ However, the Consumer Advocate, through the expert testimony of Mr. William H. Novak, is concerned with the two new allocation factors for AEAM and ALGN (related to General Office costs) and their impact on rates. Because he contends that there is not enough evidence to fully evaluate this impact, Mr. Novak recommends the Commission allow the use of these factors in this docket, but delay approving them on a permanent basis until they can be evaluated in the ARM reconciliation filing.²⁴

²⁰ *Id.* at 16.

²¹ *Id.* at 17.

²² Data Response of Atmos Energy to CPAD DR No. 2-01 (March 30, 2017).

²³ William H. Novak, Pre-filed Direct Testimony, p. 3 (April 25, 2017).

²⁴ *Id.*

Mr. Novak explains the increase in rate base is the largest reason for the current revenue deficiency of \$2.1 million and the rate base increase is due primarily to an increase in Utility Plant in Service. Plant in Service has increased approximately \$75 million since the last rate case.²⁵ For this reason, Mr. Novak requested additional information through data requests to substantiate the increase in the Capital Expenditure Budget. After reviewing the information, he found the calculations to be consistent with approved methodologies with two exceptions. The first was an exclusion of the amortization of the offset of \$2.9 million capitalized incentive compensation. After discussions with the Company, Atmos revised its original filing to recognize this amortization.²⁶ Mr. Novak's second concern relates to the allocation factors of general office costs. Consistent with the procedures adopted in its last rate case, Atmos allocates 4.33% of its general office costs (Division 02) to Tennessee. In the current filing, however, Atmos further segregates Division 02 assets into AEAM and ALGN assets and applies a new allocation factor to their cost. The allocation factor in this filing for AEAM is 5.36% and ALGN is 0.00%. Mr. Novak asserts there is not enough evidence in the current filing to determine how the new allocation factors will impact rates. For this reason, he is recommending approval of this filing with the Commission considering the allocations of AEAM and ALGN in the ARM reconciliation filing.²⁷

Atmos' Pre-filed Rebuttal Testimony

Mr. Waller's pre-filed rebuttal testimony provided updated Revenue Requirement schedules concurring with its response and schedules provided to CAPD's data request 2-01. With the adjustments adopted, the Company's *Petition* seeks a total revenue increase of \$2,127,842.²⁸ Atmos maintains its disclosure of the change in the allocation of AEAM and ALGN assets is in compliance with the ARM tariff. Although the Company also maintains this docket is the proper docket for

²⁵ *Id.* at 6-9.

²⁶ *Id.* at 10-12.

²⁷ *Id.* at 12-14.

²⁸ Gregory K. Waller, Pre-filed Rebuttal Testimony, pp. 3-4 (May 4, 2017).

consideration of this change, Atmos does not object to the TPUC withholding consideration of this change until a future reconciliation filing.²⁹ The Company does, however, state its intention to make future filings utilizing the new allocation factors unless otherwise ordered.

THE HEARING

The Hearing in this matter was held before the voting panel during the regularly scheduled Commission Conference on May 23, 2017, as noticed by the Commission on May 11, 2017. On April 11, 2017, A. Scott Ross, Esq., Attorney for Atmos, filed with the TPUC a Notice demonstrating the Company's compliance with the notice requirements of TPUC Rule 1220-04-01-.05. Prior to the hearing, the parties jointly notified the Commission that there were no outstanding procedural issues and, further, that they waived cross-examination of each party's respective expert witness.³⁰ Participating in the Hearing were:

Atmos Energy Corporation – A. Scott Ross, Esq., Neal & Harwell, 2000 One Nashville Place, 150 Fourth Avenue North, Nashville, Tennessee 37219-2498; Greg Waller, Manager of Rates and Regulatory Affairs, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75420.

Consumer Protection and Advocate Division – Wayne M. Irvin, Esq., Office of the Attorney General and Reporter, Post Office Box 20207, Nashville, Tennessee 37202-0207 and William H. Novak, President, WHN Consulting, 19 Morning Arbor Place, The Woodlands, Texas, 77381.

During the Hearing, Mr. Waller summarized his pre-filed testimony. During the hearing, he affirmed that the Company had no objection to deferring a ruling by the Commission on the two new allocators of shared assets as proposed by the Consumer Advocate.³¹ Mr. Novak was present and available for questions. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

²⁹ *Id.* at 4-5.

³⁰ *Joint-Letter of the Parties to the Chairman* (May 5, 2017).

³¹ Transcript of Commission Conference, p. 10 (May 23, 2017).

FINDINGS AND CONCLUSIONS

Following the conclusion of the hearing, the panel considered the 2017 ARM Filing of Atmos Energy Corporation. Upon review of the evidentiary record in this matter, and consistent with agreement of all outstanding issues by the parties, the panel found the *Petition* to be consistent with the previously approved methodologies and consistent with the provisions of Tenn. Code Ann. § 65-5-103(d)(6) and voted unanimously to approve the 2017 ARM Filing. Accordingly, the panel found that as amended by the Company, there is a total revenue deficiency of \$2,127,842 from operating results for the forward looking test year ending May 31, 2018.

According to Atmos, the Company has implemented two new allocation factors for shared assets. The AEAM allocator allocates Atmos' gas supply and gas control functions, while the ALGN allocates assets related to Atmos' large commercial and industrial customer billing system. The panel found that the impact of the new allocation factors is unclear. Therefore, the panel voted unanimously not to approve the new allocation factors and instead determined that consideration of these allocation factors should take place in Atmos' future reconciliation filing which is due September 1, 2017.

Finally, the panel found that the ARM continues to benefit both consumers and Atmos and remains in the public interest. The ARM allows Atmos timely recovery of investment and operating expenses ensuring safe and reliable service while benefitting consumers through reduced rate case and legal expense that would otherwise result through expensive rate case proceedings.

IT IS THEREFORE ORDERED THAT:

1. The 2017 Annual Rate Review Mechanism filing and revised rates filed by Atmos Energy Corporation, are approved.

2. The Atmos Energy Atmos Marketing allocator and the Align System allocator shall be considered in the next reconciliation filing, the filing of which is due no later than September 1, 2017.

3. Approval of Atmos Energy Corporation's 2017 Annual Rate Review Mechanism Filing and tariffs does not preclude or limit substantive review of the Annual Reconciliation to the Authorized Return on Equity to determine the reasonableness and prudence of expenses and costs recovered under the Annual Rate Review Mechanism and to ensure that service rates established by Atmos Energy Corporation pursuant to the Annual Rate Review Mechanism remain just, reasonable and in the public interest.

4. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order.

5. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

Chairman David F. Jones, Commissioner Herbert H. Hilliard and Commissioner Kenneth C. Hill concur.

ATTEST:



Earl R. Taylor, Executive Director