

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

IN RE:

**PETITION OF ATMOS ENERGY CORPORATION)
FOR APPROVAL OF ITS 2018 ANNUAL RATE) DOCKET NO. 18-00067
REVIEW FILING PURSUANT TO TENN.)
CODE ANN. § 65-5-103(d)(6))**

**PRE-FILED REBUTTAL TESTIMONY OF GREGORY K. WALLER
ON BEHALF OF ATMOS ENERGY CORPORATION**

1 **I. INTRODUCTION OF WITNESS**

2 Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.

3 A. My name is Gregory K. Waller. I am Manager, Rates and Regulatory Affairs with
4 Atmos Energy Corporation (“Atmos Energy” or “Company”). My business address
5 is 5420 LBJ Freeway, Ste. 1600, Dallas, Texas 75240.

6 Q. ARE YOU THE SAME GREG WALLER THAT FILED PRE-FILED
7 TESTIMONY IN THIS DOCKET?

8 A. Yes.

9 **II. PURPOSE OF TESTIMONY**

10 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

11 A. The purpose of my testimony is to respond to the direct testimony of Mr. David
12 Dittemore and Mr. Hal Novak filed on behalf of the Consumer Protection and
13 Advocate Division (“CPAD”) of the Attorney General’s Office.

1 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

2 A. Forward looking treatment in ratemaking results in the alignment of revenues
3 collected from customers and a utility's cost of service. It ensures that the rates
4 customers are paying reflect the utility's cost of service and the value of investment
5 provided during the same time period. The absence of such alignment results in
6 regulatory lag which systematically prevents a utility from earning its authorized
7 return on equity ("ROE"). The Company and CPAD agree that elimination of lag
8 must be part any modifications to the Company's alternative regulation mechanism
9 to which the Company would agree involving an annual single-filing. While
10 forward looking treatment is the most comprehensive way to eliminate lag, there
11 are other methods that can largely substitute and accomplish similar results. While
12 I appreciate the effort put forth by Mr. Dittmore in drafting a potential solution,
13 the parties must work together collaboratively to find a sustainable solution to
14 which all parties could agree. The work involved will be a significant effort that is
15 outside the scope of this docket for multiple reasons. The Company is willing and
16 supportive of the pursuit of a single filing solution so long as it is the result of a
17 comprehensive settlement to which all parties agree.

18 Regarding Mr. Novak's testimony, I support his recommendation that the
19 Company's ARM filing be approved and rates implemented as filed but do not
20 agree with his recommendation concerning capital budget testimony.

21 **III. SINGLE FILING ARM MECHANISM**

22 **Q. HAVE YOU REVIEWED MR. DITTEMORE'S TESTIMONY**
23 **RESPONDING TO THE COMMISSION'S QUESTIONS REGARDING**

1 **THE FORWARD LOOKING FILING IN THE ARM TARIFF? IF SO,**
2 **WHAT ARE YOUR INITIAL REACTIONS?**

3 A. Yes. I greatly appreciate the extensive thought and effort Mr. Dittmore gave to
4 responding to the Commission's questions. I think the thoroughness of his
5 testimony and detailed exhibits is evidence that the parties can work together to
6 find mutually agreeable modifications to the Company's alternative regulation
7 mechanism that results in a single-filing solution. While I do not agree with all of
8 his points, his discussion of the definition and pros and cons (from the perspective
9 of various stakeholders) of regulatory lag is for the most part fair and balanced. I
10 do not view his proposal as a finished product to which the Company would agree
11 without further work. However, having studied his proposal, I am encouraged that
12 the parties could work together to propose a finished solution for consideration by
13 the Commission in a future docket.

14 **Q. DO YOU AND MR. DITTEMORE AGREE ON CERTAIN PARAMETERS**
15 **THAT MUST BE INCLUDED IN A SINGLE FILING SOLUTION?**

16 A. Yes. We agree that any modifications to the Company's ARM tariff must
17 include/maintain the elimination of regulatory lag.

18 **Q. WHAT IS THE SIGNIFICANCE OF FORWARD LOOKING TREATMENT**
19 **IN RATEMAKING?**

20 A. As I stated in my direct testimony¹, forward looking treatment, as generally
21 described in the context of rate of return regulation, entails forecasting cost of

¹ See *In Re: Atmos Energy Corporation's 2018 ARM Filing*, Docket No. 18-00067, *Direct Testimony of Gregory K. Waller Filed on Behalf of Atmos Energy Corporation* (September 17, 2018) at 4.

1 service components and implementing rates such that the timing of the Company's
2 revenues collected from customers aligns with the timing of its cost of service. In
3 allowing such treatment, regulators ensure that the rates customers are paying
4 reflect the utility's cost of service and the value of investment provided during the
5 same time period.

6 **Q. ARE THERE OTHER APPROACHES TO RATEMAKING THAT**
7 **EFFECTIVELY REDUCE OR ELIMINATE LAG?**

8 A. Yes. The Company employs accounting deferral mechanisms in Texas and
9 Louisiana that counter the impacts of regulatory lag on some aspects (investment
10 and related operating expenses) of cost of service. While these mechanisms help,
11 they do not fully substitute for truly forward looking rates for two primary reasons:

- 12 1. The Company's cash flow is harmed because the mechanisms defer collection
13 in rates of the cost of service to a future period, and
- 14 2. They only apply to certain components of cost of service rather than forward
15 looking all aspects of cost of service.

16 **Q. DO YOU CONSIDER MR. DITTEMORE'S PROPOSED MODIFICATIONS**
17 **TO BE A TYPE OF ACCOUNTING MECHANISM AS DESCRIBED**
18 **ABOVE?**

19 A. Yes. In the absence of truly forward looking rates, some type of accounting
20 mechanism is the only way to effectively counter lag. Mr. Dittmore is proposing
21 an accounting mechanism that allows the Company to defer its
22 deficiency/sufficiency and establish a regulatory asset/liability for future recovery.

1 **Q. WHAT IS THE CHALLENGE, GIVEN TENNESSEE’S REGULATORY**
2 **CONSTRUCT, TO USING AN ACCOUNTING MECHANISM TO**
3 **ELIMINATE LAG?**

4 A. The alternative regulation statute requires that rates be set so as “to provide that the
5 public utility earns the authorized return on equity established in the public utility’s
6 most recent general rate case”². This requirement necessitates, for the reasons I
7 stated in my direct testimony, aligning the Company’s comprehensive (all aspects
8 of) cost of service with its earnings in the same time period. Said another way, the
9 only way to truly eliminate regulatory lag is to have the earnings on the income
10 statement reflect the comprehensive cost of service and result in the utility earning
11 its authorized ROE. The only way to accomplish that is to credit the income
12 statement either by billing and recording forward looking rates as revenue (as is
13 currently done in Tennessee and Kentucky³), or crediting expense through an
14 accounting mechanism that allows deferral of costs (as is currently done in Texas
15 and Louisiana). The challenge in Tennessee is that the solution, as Mr. Dittmore
16 recognizes, must fully eliminate lag⁴ which requires that the hypothetical
17 accounting mechanism encompass comprehensive cost of service. Unlike Texas
18 and Louisiana, this calculation is, as Mr. Dittmore points out, effectively a full

² Tenn. Code Ann. § 65-5-103(d)(6)(C)

³ See *In Re: Atmos Energy Corporation’s 2018 ARM Filing*, Docket No. 18-00067 *Testimony of David Dittmore on Behalf of the CAD* (September 17, 2018) at 16-17. Mr. Dittmore’s depiction of Kentucky as a jurisdiction with “significant regulatory lag” (page 16) is inaccurate. The Company’s Kentucky rates are set based on a forward looking test period. Furthermore, his assertion that the Company’s proposal in Kansas “should be a clear indication that the one-step approach is acceptable to the Company” (page 16-17) is inaccurate inasmuch as the underlying statutes and regulatory rules differ greatly between the two states.

⁴ I am, at least for the time being, ignoring the negative impact to cash flow caused by replacing forward looking rates with an accounting mechanism.

1 reconciliation revenue requirement model. It is not feasible to do such a calculation
2 to the satisfaction of outside auditors and regulators in time to credit the income
3 statement for the deferral in the same time period in which costs were incurred.

4 **Q. DOES MR. DITTEMORE'S PROPOSED SOLUTION ACCOMPLISH THE**
5 **ELIMINATION OF LAG AS HE ASSERTS?**

6 A. For the reasons cited above, I don't believe so. However, I would need to better
7 understand his proposal and have the opportunity for questions and dialogue before
8 making that definitive determination.

9 **Q. DESPITE THAT CHALLENGE, DO YOU BELIEVE THAT THE PARTIES**
10 **CAN FIND A MUTUALLY AGREEABLE SOLUTION?**

11 A. Yes. I am still convinced that the parties, with significant time and effort, could
12 find a single filing solution. It could involve, for example, using estimates of the
13 required deferrals combined with rolling true-ups that would allow time to execute
14 and review the necessary reconciliation calculations. As I stated in my direct
15 testimony, the Company is willing and supportive of the pursuit of a single filing
16 solution so long as it is the result of a comprehensive settlement to which all parties
17 agree.

18 **Q. IS THERE A SPECIFIC ASPECT OF MR. DITTEMORE'S PROPOSAL TO**
19 **WHICH YOU DO NOT AGREE?**

20 A. Yes. His proposed budget filing is unnecessary. I have described our budget
21 development and approval process in testimony before this Commission on
22 multiple occasions. It does not include nor have I ever described a dual-pronged
23 approach that results in one budget for regulatory purposes and another for investor

1 guidance. Furthermore, since the inception of the ARM tariff, the Board of
2 Directors has provided a specific approval for the annual forward looking CAPEX
3 for the Tennessee jurisdiction. That Board resolution references the Company's
4 five-year financial plan. Since there has been no evidence of a regulatory budget
5 that differs from an investor focused guidance budget, I see no need for a budget
6 filing that proves such a reconciliation.

7 **Q. DO YOU BELIEVE THAT THIS IS THE APPROPRIATE DOCKET IN**
8 **WHICH TO MAKE MODIFICATIONS TO THE ARM TARIFF?**

9 A. No. For the reasons and significant challenges discussed above, I believe this effort
10 is beyond the scope of this docket, in addition to being contrary to the requirements
11 of Tenn. Code Ann. 65-5-103(d)(6)(D)(ii). The Company, in this docket, has
12 proposed a rate decrease of over five million dollars that, if approved on or about
13 October 15, 2018, will be approximately four and one-half months later than
14 prescribed by the ARM tariff due to the delay of Docket 17-00091. It is in the
15 public interest to implement this rate decrease as soon as practicable and without
16 further delay. There is simply not enough time to work out the considerable details
17 that must be contemplated in any potential single-filing ARM solution. Following
18 the implementation of rates as filed in this docket, and at the direction of the
19 Commission, the parties can get to work on the pursuit of a single filing solution.

20 **Q. BESIDES TIME CONSTRAINTS, ARE THERE OTHER REASONS FOR**
21 **YOU TO CONCLUDE THAT THIS IS NOT THE APPROPRIATE DOCKET**
22 **FOR TARIFF MODIFICATIONS?**

1 A. Yes. There are specific procedures in the statute⁵ and Settlement Agreement⁶ that
2 address how a utility's alternative rate mechanism may be altered. Under both sets
3 of procedures, a separate proceeding would be required. In addition to these
4 procedural requirements, the significance and complexity of the contemplated
5 changes to the ARM would require time and resources that cannot be afforded to
6 the task within the confines of the present docket.

7 **IV. MR. HAL NOVAK'S TESTIMONY**

8 **Q. HAVE YOU REVIEWED MR. NOVAK'S TESTIMONY? IF SO, WHAT**
9 **ARE YOUR INITIAL THOUGHTS?**

10 A. Yes. I appreciate Mr. Novak's review of our 2018 Forward Looking ARM filing
11 and support his recommendation that the Company's proposed rates be
12 implemented as filed in this Docket.

13 **Q. WHAT IS YOUR REACTION TO HIS RECOMMENDATION**
14 **REGARDING CAPEX TESTIMONY?**

15 A. The issue Mr. Novak raises in this docket is similar to issues he has raised in
16 previous ARM dockets regarding, in his opinion, lack of needed detail and support
17 of some aspect of the Company's filings. In previous instances, the Company has

⁵ Tenn. Code Ann. § 65-5-103(d)(6)(D).

⁶ *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, Exhibit A to *Order Approving Settlement* (November 4, 2015). (In regards to the CAPD modifying the Settlement Agreement, Section 16 of the Settlement Agreement states the following: "The CAPD shall have the right in its sole discretion to file a petition or complaint asking the TRA [TPUC] to terminate or modify any ARM Tariff resulting from this Docket or any directly or indirectly related docket or to take any action other actions contemplated by Tenn. Code Ann. § 65-5-103(d)(6). Atmos Energy agrees not to oppose the CAPD's petition or complain file under this Section on the grounds that such a proceeding is not statutorily authorized or that CAPD is not authorized to bring such a proceeding; provided, however, that Atmos Energy reserves all rights with regard to the merits of an termination or modification or other relief that the CAPD may request or position that the CAPD may assert in any such proceeding")

responded by demonstrating that it followed the Approved Methodologies and was in compliance with the ARM tariff. This docket is no different. The Company forecasted capital investments consistent with the Approved Methodologies and consistent with the methodology it has employed since the inception of the ARM tariff. In this case, for the first time since the inception of the ARM tariff, Mr. Novak had a question regarding the CAPEX information presented and served the Company with a discovery request. The Company answered the discovery request (apparently to Mr. Novak's satisfaction). In short, the process worked exactly as it was intended.

V. CONCLUSION

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes. I respectfully request that the Commission approve the Company's 2018 ARM filing and its attendant rate decrease as proposed and direct the parties to continue working together to find mutually agreeable modifications to the Company's alternative regulation mechanism that employs a single filing solution. The Company believes that its ARM tariff, as currently written and executed, is consistent with the statute but is willing to pursue a single-filing solution for use in the future. The Company also believes, however, that finding such a solution should be attained through a collaborative effort in a docket established for that purpose.

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

IN RE:

ATMOS ENERGY CORPORATION)
ANNUAL RECONCILIATION)
OF ANNUAL REVIEW MECHANISM)


Docket No. 18-00067

VERIFICATION


STATE OF TEXAS)

COUNTY OF DALLAS)

I, Gregory K. Waller, being first duly sworn, state that I am the Manager of Rates and Regulatory Affairs for Atmos Energy Corporation, that I am authorized to testify on behalf of Atmos Energy Corporation in the above referenced docket, that the Rebuttal Testimony of Gregory K. Waller in support of Atmos Energy Corporation's filing is true and correct to the best of my knowledge, information and belief.


Gregory K. Waller

Sworn and subscribed before me this 24th day of September, 2018.


Notary Public

My Commission Expires: 9/01/2020

