

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

IN RE:

**ATMOS ENERGY CORPORATION
FOR APPROVAL OF ITS 2018 ANNUAL
RATE REVIEW FILING PURSUANT TO
TENN. CODE ANN. § 65-5-103(d)(6)**

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DOCKET NO. 18-00067

TESTIMONY

OF

DAVID DITTEMORE

September 17, 2018

IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE

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I, David N. Dittmore, Financial Analyst, on behalf of the Consumer Advocate Division of the Attorney General's Office, hereby certify that the attached Testimony represents my opinion in the above-referenced case and the opinion of the Consumer Protection and Advocate Division.

David N. Dittmore
DAVID N. DITTEMORE

Sworn to and subscribed before me this 17th day of Sept, 2018.

Emily Knight
NOTARY PUBLIC

My commission expires: May 6, 2019



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- 1 David N. Dittmore Vita
- 2 NRRI Report
- 3 Slide Excerpts from Current Regulatory and Ratemaking Issues; Russ Feingold before the American Gas Association Accounting Principles Committee Meeting
- 4 Consumer Advocate Proposed Red-line version of Atmos ARM Tariff
- 5 Consumer Advocate Proposed Clean version of Atmos ARM tariff
- 6 Atmos ARM Timelines
- 7 Consumer Advocate Proposed Red-line version of Stipulation and Agreement, Docket No. 14-00146
- 8 Consumer Advocate Proposed Clean Version of Stipulation and Agreement, Docket No. 14-00146
- 9 Revised Methodology – Accumulated Deferred Income Tax (ADIT) Forecast
- 10 Revised Methodology – Removal of Capitalized Incentive Compensation
- 11 Revised Methodology – Allocation of Certain Shared Plant Balances
- 12 Regulatory Assets and Liabilities and ADIT Deviations Required by the Tax Cuts and Jobs Act (TCJA)

1 **Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION**
2 **FOR THE RECORD.**

3 **A1.** My name is David N. Dittmore. I am a Financial Analyst employed by the Consumer
4 Protection and Advocate Division within the Office of the Tennessee Attorney General
5 (Consumer Advocate). My business address is Office of the Tennessee Attorney
6 General, UBS Tower, 315 Deaderick Street, Nashville, TN 37243.

7 **Q2. PLEASE PROVIDE A SUMMARY OF YOUR BACKGROUND AND**
8 **PROFESSIONAL EXPERIENCE.**

9 **A2.** I received a Bachelor of Science Degree in Business Administration from the
10 University of Central Missouri in 1982. I am a Certified Public Accountant licensed in
11 the state of Oklahoma (#7562). I was previously employed by the Kansas Corporation
12 Commission (KCC) in various capacities, including Managing Auditor, Chief Auditor,
13 and Director of the Utilities Division. For approximately four years, I was self-
14 employed as a Utility Regulatory Consultant representing primarily the KCC Staff in
15 regulatory issues. I also participated in proceedings in Georgia and Vermont,
16 evaluating issues involving electricity and telecommunications regulatory issues.
17 Additionally, I performed a consulting engagement for Kansas Gas Service (KGS), my
18 subsequent employer during this time frame. For eleven years, I served as Manager
19 and subsequently Director of Regulatory Affairs for KGS, the largest natural gas utility
20 in Kansas, serving approximately 625,000 customers. KGS is a division of One Gas,
21 a natural gas utility serving approximately two million customers in Kansas, Oklahoma,

1 and Texas. I joined the Office of the Tennessee Attorney General in September, 2017
2 as a Financial Analyst. In total, I have over thirty years' experience in the field of
3 public utility regulation. I have presented testimony as an expert witness on numerous
4 occasions. Attachment DND-1 is a detailed vita of my professional background.

5 **Q3. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE THE**
6 **TENNESSEE PUBLIC UTILITY COMMISSION (TPUC)?**

7 A3. Yes. I have submitted testimony in TPUC Docket Nos. 17-00014, 17-00108, 17-00138,
8 17-00124, 17-00143, 18-00017, and 18-00022.

9 **Q4. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS DOCKET?**

10 A4. The purpose of my testimony is two-fold; I will provide responses to three questions
11 posed by Tennessee Public Utility Commission (TPUC) Staff to the Parties in this
12 Docket on August 17, 2018. I am also providing comments concerning the need for
13 TPUC to defer decisions on the amount of excess Accumulated Deferred Income Taxes
14 (ADIT) and how it should be treated until the specific Atmos Tax Cut and Jobs Act
15 (TCJA) case in Docket No. 18-00034 is completed.

16 **RESPONSES TO QUESTIONS POSED BY TPUC STAFF**

17 **Q5. PLEASE IDENTIFY THE FIRST QUESTION POSED BY TPUC STAFF.**

18 A5. The first question is:

Part 1: Whether the Annual Review Mechanism should be modified to eliminate (a) the Forward Looking Test Year filing requirement and (b) the associated annual rate adjustment based on the Forward Looking Test Year filing; while retaining (c) the Annual Reconciliation of actual results to the Authorized Return on Equity and (d) the associated annual rate adjustment based on the Annual Reconciliation Revenue Requirement necessary to adjust the actual return on equity to the Authorized Return on Equity for the year immediately completed, all determined in accordance with the Approved Methodologies.

Part 2: Please discuss the rationale, including advantages and disadvantages, of retaining or eliminating the Forward-Looking Test Year filing requirement and associated annual rate adjustment based on the Forward-Looking Test Year filing.

Part 3: If the Forward-Looking Test Year filing requirement and associated annual rate adjustment based on the Forward-Looking Test Year filing are eliminated, please set forth with specificity and discuss in detail the changes to the Company's tariff and/or Approved Methodologies necessary to implement this modification.

QUESTION ONE, PART 1

Q6. IS THE FORWARD-LOOKING ARM IN THE PUBLIC INTEREST?

A6. No.

Q7. PLEASE TURN TO THE FIRST TOPIC AND ADDRESS TPUC'S FIRST QUESTION WITHIN THE REQUEST; SPECIFICALLY, WHETHER THE ANNUAL REVIEW MECHANISM (ARM) SHOULD BE MODIFIED TO ELIMINATE THE FORWARD-LOOKING TEST PERIOD REQUIREMENT.

1 **A7.** It is my professional opinion that the forward-looking portion of the ARM requirement
2 is not in the public interest and the ARM should be modified. I recommend adoption
3 of a simplified approach of a one-step ARM where the annual financial results of
4 Atmos are trued-up to the authorized return on equity based upon an approved set of
5 parameters and methodologies. As the original two-step ARM process (budget and
6 reconciliation) played out in practice, it has become clear that the elimination of the
7 budget aspect of the ARM filing has several important advantages justifying a change
8 in the way Atmos' rates are set so that the process will operate in the public interest.

9 **Q8. LIST THE REASONS WHY THE ELIMINATION OF THE BUDGET ASPECT**
10 **OF THE ARM IS IN THE PUBLIC INTEREST.**

11 **A8.** As an overview, there are several reasons supporting the elimination of the budget
12 aspect of the Utility's ARM filing, which are addressed below and include:

- 13 1. The elimination of Regulatory Lag, achieved through the Budget filing, may be
14 achieved through a one-step approach, at a reduced cost.
- 15 2. The existing two-step ARM budget and reconciliation is difficult to audit and
16 review for reasonableness.
- 17 3. The Atmos two-step budget and reconciliation process creates an unnecessary
18 administrative burden on TPUC, the Company, and the Consumer Advocate which
19 is costly to ratepayers.
- 20 4. The budgeted aspect of the ARM process provides a utility with an inherent bias,
21 or incentive to 'budget' high, thereby producing greater revenues to the detriment
22 of ratepayers. There is also a bias by individual department managers to budget
23 high so as not to exceed their budget.
- 24 5. Elimination of the budget aspect of the filing will still provide Atmos with an ARM
25 that is very favorable from a utility shareholder perspective.

26 I will separately address each of these points in greater detail below.

QUESTION ONE, PART 2

Q9. WHAT ARE THE BENEFITS OF THE ELIMINATION OF THE BUDGETED ASPECT OF THE TWO-STEP ARM?

A9. The absence of Regulatory Lag can be achieved in a one-step ARM at a reduced cost.

Q10. IN YOUR FIRST POINT, YOU REFERENCE REGULATORY LAG. DEFINE THAT TERM AND EXPLAIN ITS SIGNIFICANCE TO UTILITIES AND RATEPAYERS.

A10. A concise definition of Regulatory Lag can be found in the National Regulatory Research Institute's paper, "Future Test Years: Challenges Posed for State Utility Commissions", it states:

"Regulatory Lag" refers to the time gap between when a utility undergoes a change in costs or sales levels and when the utility can reflect these changes in new rates.

I have attached the NRRI report as Attachment DND-2.

Regulatory Lag is really focused on the time period between when a change in costs are incurred and when the corresponding revenue associated with the change in costs may be recorded.

Managers of regulated utilities are focused on developing and proposing regulatory policies and mechanisms which reduce or eliminate Regulatory Lag to the greatest extent possible. In Atmos' 2017 10-K report filed with the Securities and Exchange Commission (SEC), the Company states that its rate strategy focuses on reduction or

1 elimination of Regulatory Lag.¹ The end result of the elimination of Regulatory Lag is
2 reduced risk for utility shareholders, reduced volatility of earnings, and assurance (or
3 near assurance) that the utility will earn its authorized return. Put simply, the goal is to
4 maximize earnings.

5 **Q11. YOU HAVE INDICATED MINIMIZING REGULATORY LAG BENEFITS**
6 **UTILITY SHAREHOLDERS. WHAT IS THE IMPLICATION OF**
7 **REGULATORY LAG FOR UTILITY RATEPAYERS?**

8 **A11.** There are both positive and negative implication for ratepayers with the imposition of
9 mechanisms that eliminate Regulatory Lag. First, I will briefly identify the positive
10 aspects for ratepayers resulting from properly structured mechanisms that eliminate
11 Regulatory Lag:

- 12 1. Absent losses from unregulated operations, an ARM mechanism ensures a utility
13 will have the financial strength to provide quality service. The ARM mechanism
14 greatly reduces the financial risk of the utility; thus, the financial strength of the
15 utility is virtually assured.
- 16 2. The utility has a strong incentive to invest in infrastructure. There is no potential
17 conflict between safety expenditures and profitability as may exist with utilities
18 operating in states under traditional rate case regulation, without infrastructure
19 mechanisms in place.
- 20 3. As a general rule, the annual rate increases tend to be smaller with annual review
21 filings rather than the less frequent, but generally larger, rate increases authorized
22 within base rate case proceedings.
- 23 4. Presumably, rate case associated costs savings should accrue to customers served
24 by a utility under an ARM.

¹ Atmos SEC 2017 10-K, page 7. <http://www.investquest.com/iq/a/ato/fin/10k/atok17.pdf>

1 The negative implications for ratepayers of an ARM, with no Regulatory Lag, include
2 the following:

- 3 1. Ratepayers can expect to experience consistent, annual rate increases under an
4 ARM process.
- 5 2. Absent placement of a cap on annual Operating and Maintenance (O&M) cost
6 increases within the ARM mechanism, there is little (to no) financial incentive for
7 the utility to control costs. This disadvantage could prove costly to ratepayers.
8
- 9 3. There is an incentive to overbuild the system since there is a direct link between
10 the level of capital expenditures and profitability. Again, this disadvantage may
11 prove costly to ratepayers.
12
- 13 4. Utilities with ARM mechanisms are virtually guaranteed to earn their authorized
14 rate of return. This is a departure from the regulatory compact upon which returns
15 on equity are authorized, that indicates utilities should have a reasonable
16 opportunity to earn their authorized return on equity. The reasonable opportunity
17 falls short of the virtual guarantee that utilities operate under with an ARM process.
18

19 **Q12. IS THERE ANY REGULATORY LAG BUILT INTO THE EXISTING TWO-**
20 **STEP MECHANISM THAT ATMOS CURRENTLY OPERATES UNDER?**

21 **A12.** No, there is no Regulatory Lag built into the existing ARM.

22 **Q13. DOES THE EXISTING TWO-STEP PROCESS VIRTUALLY GUARANTEE**
23 **ATMOS WILL EARN ITS AUTHORIZED RETURN ON EQUITY?**

24 **A13.** Yes. Under the existing regulatory structure Atmos is virtually guaranteed to earn its
25 authorized return on equity, absent a demonstration of imprudence, and subject to
26 regulatory determinations as set forth in the last case.

1 **Q14. IF THE GOAL OF THE COMMISSION IS TO ENSURE ATMOS DOES NOT**
2 **INCUR ANY REGULATORY LAG, IS IT NECESSARY TO MAINTAIN THE**
3 **EXISTING TWO-STEP ARM PROCESS?**

4 **A14.** No. While the two-step ARM methodology removes Regulatory Lag, a one-step ARM
5 true-up would achieve the same goal at a reduced cost to ratepayers and with less
6 administrative burden to all stakeholders.

7 **Q15. IN YOUR OPINION, WHAT MODIFICATIONS SHOULD BE MADE TO THE**
8 **EXISTING TWO-STEP ARM PROCESS THAT WILL CONTINUE TO**
9 **VIRTUALLY GUARANTEE ATMOS EARNS ITS AUTHORIZED RETURN**
10 **ON EQUITY ON PRUDENTLY INCURRED COSTS?**

11 **A15.** I recommend that the Commission simply eliminate the budget aspect of the ARM
12 calculation altogether. Atmos would make an annual filing which would true-up its
13 actual operating results, including its actual return on equity with the utility's
14 authorized return on equity. This modification to the existing two-step ARM process
15 would represent a fairly simple change in the process. However, there are a number of
16 methodology changes that would need to be modified to accompany the elimination of
17 the budget process.

18 **Q16. WILL ATMOS CONTINUE TO EARN ITS AUTHORIZED RETURN ON**
19 **EQUITY UNDER THE PROPOSED ONE-STEP ARM?**

20 **A16.** Yes. Atmos would be permitted to accrue any verified earnings shortfall established
21 by its filing in the proceeding period at the time it closes its financial records. It would

1 calculate its earnings shortfall (or excess) and record a regulatory asset or liability,
2 depending upon the results of the verified calculation. A monthly return would then be
3 calculated from the midpoint of the Historic Base Period through the date in which new
4 rates became effective. After review and verification through a transparent process,
5 including interested Parties and approval by this Commission, Atmos would modify its
6 rates to recover (or refund) the earnings shortfall (excess) plus appropriate interest.

7 **Q17. EARLIER YOU INDICATED THAT THE ANNUAL TRUE-UP SHOULD BE**
8 **BASED UPON THE FISCAL YEAR RESULTS OF ATMOS. ARE YOU**
9 **RECOMMENDING A CHANGE IN THE TRUE-UP YEAR TO MATCH THE**
10 **ATMOS FISCAL PERIOD?**

11 **A17.** Yes. There are standard year-end accounting entries made to true-up the inherent
12 estimated entries made throughout the year. Using a measurement period that cuts
13 across two fiscal periods (as is now the case with Atmos two-step process) means that
14 rates are adjusted in part based upon the costs attributed to two periods ago. I
15 recommend this change because the use of Atmos' fiscal period within the ARM
16 mechanism ensures that revenues and costs reflected in the books actually match the
17 period under review and are properly synchronized.

18 **DIFFICULTY IN REVIEWING A BUDGET**

19 **Q18. PLEASE DISCUSS THE CHALLENGES IN PROVIDING AN ACCURATE**
20 **REVIEW OF THE COMPANY'S BUDGET THAT ACCOMPANIES PART**
21 **ONE OF THE TWO-STEP ARM PROCESS.**

1 **A18.** The Company's budget filing does not allow for a comprehensive assessment of all of
2 the assumptions incorporated into the budget. Further, even with additional time built
3 into the process, it is quite challenging to assess the reasonableness of a forecast for
4 ratemaking purposes. Therefore, the two-step process currently in effect is primarily
5 for the benefit of the Company, not ratepayers.

6 A secondary challenge with the use of ARM budgeted data is that any modification in
7 the amount of additional plant permitted into rate base requires another modification of
8 the ADIT, in order for the two rate base components to be properly synchronized. The
9 modification to a budgeted ADIT balance is one that has proven to be controversial,
10 costly and complex and has led to allegations of tax normalization violations by subject
11 utilities. Potential complex tax arguments may be avoided with the use of historic data.

12 **Q19. ARE THERE BENEFITS TO STAKEHOLDERS IN OBTAINING THE**
13 **COMPANY'S BUDGET?**

14 **A19.** Yes. However, providing interested Parties a copy of the upcoming years' budget can
15 be accomplished in a transparent manner outside of the two-step process. The
16 Consumer Advocate recommends Atmos be required to submit its annual budget as
17 part of the proposed one-step ARM process. Thus, the benefits and transparency
18 associated with the revised ARM should be maintained.

19 **Q20. DO YOU HAVE OTHER RECOMMENDATIONS CONCERNING THE**
20 **SUBMISSION OF THE UTILITY'S BUDGET WITHIN THE ANNUAL**
21 **REVIEW FILING?**

1 **A20.** Yes. Atmos, like most publicly traded companies, provides annual earnings ‘guidance’
2 to investors. This ‘guidance’ comes in the form of a range of earnings per share in the
3 upcoming fiscal year that is publicly disclosed. The Company will have an overall
4 corporate budget that supports these important public statements that are relied upon
5 by investors. This budgeted data, which is translated to earnings ‘guidance,’ is prepared
6 and carefully reviewed by reporting companies, as the results impact investor
7 expectations, which in turn play an important role in the prices of the Company’s stock.
8 If entities forecast earnings greater than actual results, it will miss the ‘guidance’ target
9 and if this happens frequently enough investors will lose confidence in the Company’s
10 management.

11 I recommend that as part of the budget submission that would accompany the annual
12 reconciliation filing, the Company verify that the Tennessee jurisdictional budget
13 submitted as part of its ARM is reflected as a component of the overall corporate budget
14 that is used to provide ‘guidance’ to Atmos investors. The objective of this verification
15 process is to ensure the Tennessee budget provided to the Commission is consistent
16 with the range of ‘guidance’ provided to investors.

17 **Q21. ARE THERE ANY POINTS YOU WANT TO EMPHASIZE REGARDING THE**
18 **VERIFICATION RECOMMENDATION?**

19 **A21.** Yes. There are two things regarding this recommendation that need to be kept in mind.
20 First, the budget to be submitted would cover a period of October 1st through September
21 30th. The submission of the budget to the Commission, the Consumer Advocate and
22 other interested parties would occur midway through this period on or before January

1 15th. Therefore, a portion of the budget would relate to historic periods at the time of
2 submission. Secondly, the budgets that have been used historically to set rates relate
3 to a different period than those used to communicate a range of possible earnings per
4 share to investors and the public generally.

5 **TWO STEP ARM PROCESS IS ADMINISTRATIVELY BURDENSOME**

6 **Q22. EARLIER YOU INDICATED THAT THE EXISTING TWO-STEP PROCESS**
7 **IMPOSES AN ADMINISTRATIVE BURDEN. HOW DOES THE EXISTING**
8 **TWO-STEP PROCESS IMPOSE ADDITIONAL COSTS ON**
9 **STAKEHOLDERS?**

10 **A22.** First, I want to explain as a matter of background, it is always important to review and
11 reconsider whether a process being employed has value rather than just continuing the
12 same process without a review. The Consumer Advocate appreciates that the
13 Commission Staff's questions require the Parties to step back and reflect on the existing
14 process and determine what has value and what does not. As the Consumer Advocate
15 has reflected on the process, it has become apparent the administrative process provides
16 more burden than benefit. Further, the benefits can be achieved without the
17 burdensome process described above. To step back a bit, I think a quick review of the
18 existing process will help. The existing ARM mechanism requires two filings a year
19 encompassing all aspects of its operations, two reviews by the Consumer Advocate and
20 any Intervening Parties, Commission Staff and the Commission, a technical hearing,
21 and the submission of a written order, all for just one utility. Upon reflection of the
22 process to date, the budgeted ARM filing "review" is not necessary and results in

1 additional needless time, effort and cost for all involved. It is important for available
2 government resources assigned to the regulation of Tennessee jurisdictional utilities to
3 be focused on how to best spend its resources- in this case the resources could be better
4 spent on other issues. I question whether the Commission and the Consumer Advocate
5 have the necessary resources and even whether it would be useful if resources were
6 available to apply this two-step process to all jurisdictional utilities, should those
7 entities seek the same regulatory framework under which Atmos operates. It may be
8 problematic for the Commission to reject a budgeted ARM proposal for these utilities
9 when Atmos has such a mechanism in place, resulting in a significant burden on the
10 Commission, its Staff and the Consumer Advocate, resulting in little or no value to the
11 State and its ratepayers. This is the heart of reason the two-step ARM process is not in
12 the public interest.

13 **USE OF A BUDGET TO SET RATES INJECTS AN INCENTIVE TO CREATE A**
14 **BUDGET THAT WILL MAXIMIZE REVENUES**

15 **Q23. CONTINUE WITH A DISCUSSION OF WHY YOU BELIEVE SETTING**
16 **RATES BASED UPON A UTILITY'S BUDGET CREATES AN**
17 **INAPPROPRIATE INCENTIVE FOR THE UTILITY.**

18 **A23.** When rates are set on a utility's budget, as occurs with the two-step ARM methodology,
19 the utility has a clear theoretical economic incentive to 'aim high', i.e., that is to be
20 very aggressive in establishing budgeted costs, capital expenditures and revenue that
21 will result in maximizing its own earnings. Whether a utility acts on this incentive is
22 virtually impossible to determine. The use of a budget in setting rates establishes this

incentive to overbudget, which cannot be adequately monitored and reviewed. Therefore, the use of a utility budget to set rates is not in the public interest and this aspect of the two-step process should be eliminated.

ONE-STEP ARM IS STILL FAVORABLE FOR ATMOS

Q24. YOU CONCLUDE THAT THE ONE-STEP ARM WILL CONTINUE TO BE FAVORABLE TO ATMOS. HOW WOULD THE ONE-STEP PROPOSED ARM COMPARE WITH THE MECHANISMS USED IN OTHER ATMOS STATES FROM A UTILITY PERSPECTIVE?

A24. After careful review and consideration of the process that has been employed in Tennessee, I have compared the proposed one-step regulatory mechanism I am supporting with the Regulatory Lag (or absence of Regulatory Lag) in other Atmos states. In summary, the one-step ARM will ensure Atmos does not incur Regulatory Lag. And while there are certain states such as Mississippi and Louisiana which apparently permit budgeted information to form the basis for setting rates covering all aspects of its revenue requirement on an annual basis, the approach I am offering in this testimony maintains a regulatory framework that provides very little risk to Atmos shareholders while maintaining transparency. The one drawback from an Atmos shareholder perspective is that the receipt of cash will not occur as quickly under my recommendation as under the two-step ARM approach. The current two-step approach permits cost recovery and return on invested capital commensurate when such funds are expended. Therefore, in this method ratepayers are providing funding for Atmos operations as it occurs. With the one-step ARM approach, any earnings deficiency or

sufficiency is deferred, thus preventing Regulatory Lag, but to the extent the revenue requirement increases in this period, the Company would wait until the following year to recover the cash associated with its increased costs. However, this slight delay in cash flow has no effect on overall Company earnings and this framework will continue to be superior from a cash-flow perspective to the regulatory structure in other states it operates in such as Colorado, Kansas, and Kentucky.

Q25. PLEASE PROVIDE A GENERAL DESCRIPTION OF THE REGULATORY PROCESS IN COLORADO, KANSAS, AND KENTUCKY.

A25. Colorado permits its jurisdictional gas utilities to impose a surcharge for forecasted qualifying infrastructure investment that relates to safety, but the remainder of the Atmos' Colorado revenue requirement is recovered through traditional rate cases, which translates to Regulatory Lag.² In Kansas, Atmos has an infrastructure surcharge mechanism that permits recovery of qualifying safety-related expenditures after such expenditures have been placed in service, therefore the mechanism is not forward-looking.³ The remainder of Atmos' Kansas revenue requirement components, other than ad-valorem taxes, are recovered in base rates, based upon a historic test period adjusted for known and measurable changes, resulting in Regulatory Lag.

In Texas, Atmos' Mid-State division permits an annual true-up mechanism based upon historic level of capital spend and historic O&M costs adjusted for known and

² <https://www.atmosenergy.com/utility-operationsrates/tariffs-colorado/colorado>; pdf page 33.

³ <https://www.atmosenergy.com/utility-operationsrates/tariffs-kansas/kansas>; pdf page 163.

1 measurable changes. A review of the underlying tariff indicates that the majority of the
2 revenue requirement components are historic in nature and not forward-looking.⁴

3 Lastly, in Kentucky, in a recent proceeding before the Kentucky Public Service
4 Commission, the ARM mechanism proposed by Atmos was not adopted by the
5 Commission. Therefore, there remains significant Regulatory Lag in Atmos' Kentucky
6 operations.⁵

7 In summary, the recommended one-step ARM mechanism I describe above is more
8 favorable to Atmos than the overall regulatory framework in place in several states in
9 which Atmos operates. More importantly, with the application of a return on any
10 revenue deficiency/sufficiency, coupled with the ability to defer as a regulatory asset
11 or liability, or any revenue requirement deficiency or excess, the proposal I am
12 sponsoring contains no Regulatory Lag.

13 **Q26. HAS ATMOS PROPOSED A SIMILAR ONE-STEP ARM MECHANISM IN**
14 **OTHER STATES?**

15 **A26.** Yes. Atmos has proposed an Annual Rate Mechanism in Kansas like the one-step
16 ARM approach I am supporting in this Docket⁶. While the one-step ARM does not
17 provide the advanced cash flow as does the existing two-step ARM, the fact that the

⁴ <https://www.atmosenergy.com/utility-operationsrates/mid-tex/mid-texas>; PDF pages 24-31.

⁵ https://psc.ky.gov/pscscf/2017%20Cases/2017-00349/20180503_PSC_ORDER.pdf, pages 33 – 37.

⁶ The proposed Annual Rate Mechanism was not approved by the Kansas Corporation Commission in Docket No. 16-ATMG-079-RTS)

1 proposed ARM is very similar to what was proposed by the Company in Kansas should
2 be a clear indication that the one-step approach is acceptable to the Company.⁷

3 **Q27. DO MOST UTILITIES OPERATE UNDER A FRAMEWORK WHERE**
4 **EARNINGS ON PRUDENTLY INCURRED COSTS ARE VIRTUALLY**
5 **GUARANTEED?**

6 **A27.** No. In the standard regulatory framework, utilities are provided a reasonable
7 opportunity to earn their return on equity, but this principle falls short of a guarantee.
8 According to Russ Feingold, Vice President of Black & Veatch, in a presentation before
9 an American Gas Association Accounting Meeting, only nine states have adopted
10 mechanisms for natural gas utilities such as Atmos ARM mechanism.⁸ Two of the
11 slides from this presentation are included as Attachment DND-3, while the entire
12 presentation may be found at the link referenced in the footnote.

13 **QUESTION ONE, PART 3**

14 **WHAT CHANGES IN THE ATMOS ARM TARIFF AND AGREED-UPON**
15 **METHODOLOGIES ARE NECESSARY IF THE TWO-STEP ARM IS ELIMINATED IN**
16 **FAVOR OF AN ANNUAL RECONCILIATION?**

17 **Q28. WHAT CHANGES TO THE ATMOS TARIFF ARE REQUIRED TO AFFECT**
18 **THE CHANGE TO A ONE-STEP ARM PROCESS?**

⁷ See Testimony of Gary Smith; Docket No. 16-ATMG-079 RTS before the Kansas Corporation Commission;
<http://estar.kcc.ks.gov/estar/ViewFile.aspx/S20150813114742.pdf?Id=b7513741-9cee-4009-959a-880c0eabf714>,
page 4.

⁸https://www.aga.org/sites/default/files/sites/default/files/media/2017_accounting_principles_committee_feingold_presentation.pdf "Current Regulatory and Ratemaking Issues", August 14-16, 2017 before the American Gas Association Accounting Principles Committee Meeting. The information was assembled as of 12/31/16.

1 **A28.** I have attached a red-line version of the changes to the Atmos tariff I am sponsoring,
2 identified as Attachment DND-4. The clean version of the proposed Atmos tariff is
3 included as Attachment DND-5. The significant changes are summarized below:

- 4 1. Move the reconciliation from a study period ending May 31st to Atmos' fiscal
5 period ending September 30th.
- 6 2. The rates resulting from this pending budget filing will go into effect as typically
7 occurs within a budget filing.
- 8 3. The first reconciling period will be the twelve months ended September 30, 2019,
9 with the filing to be made no later than January 15, 2020.
- 10 4. The modification of the reconciliation period from May 31st to September 30th
11 necessarily means that four months of operating results will not be reconciled.
12 However, I recommend that the Company be permitted to establish a one-time
13 deferral to capture depreciation expense and a return on plant placed in service
14 during this period. This one-time deferral should be kept in place through the date
15 new reconciliation rates become effective subsequent to the January 2020 filing.

16 **Q29. DISCUSS YOUR FIRST POINT, THAT THE ANNUAL RECONCILIATION**
17 **WOULD BE BASED UPON THE COMPANY'S FISCAL PERIOD RATHER**
18 **THAN THE EXISTING RECONCILIATION WHICH IS BASED UPON**
19 **RESULTS THROUGH MAY 31ST.**

20 **A29.** As discussed above, there are significant benefits associated with matching the
21 reconciliation period with the Company's fiscal period. The financial results for a
22 twelve-month period other than a fiscal period do not contain the necessary year-end
23 true-ups and adjustments necessary to ensure the financial statements for that period
24 are accurate. Instead, accuracy is confirmed over a twelve-month period by using the
25 fiscal year data.

1 **Q30. DOES YOUR RECOMMENDATION IMPACT THE CURRENT BUDGET**
2 **FILING AND THE ESTABLISHMENT OF NEW RATES?**

3 **A30.** No. My recommendation is that the rates resulting from this budget filing should go
4 into effect as they have traditionally at the end of this Docket once an order is entered.

5 **Q31. HOW WILL YOUR RECOMMENDATION IMPACT THE**
6 **RECONCILIATION FILING IN DOCKET NO. 18-00097?**

7 **A31.** The results of the 18-00097 reconciliation docket should be deferred and carrying costs
8 should be applied to the balance each month, and the resulting accumulated balance
9 should be included in the initial Annual Reconciliation Revenue Requirement.
10 Currently, such deferrals are carried forward and included in the next budget filing.
11 This proposed process is very similar; however, it will simply be carried forward until
12 the initial Annual True-up.

13 **Q32. WOULD THE INITIAL ANNUAL TRUE-UP CONTAIN THE**
14 **RECONCILIATION FOR TWO SEPARATE PERIODS?**

15 **A32.** Yes. The initial Annual True-up would include the over/under recovery adopted in the
16 pending Docket No. 18-00067 covering the twelve-month period ending May 31, 2018,
17 as well as the initial reconciliation covering the twelve-month period ending September
18 30, 2019.

1 **Q33. ARE YOU RECOMMENDING ANY ONE-TIME ACCOUNTING**
2 **DEFERRALS AS A RESULT OF MOVING FROM A MAY TEST PERIOD TO**
3 **A SEPTEMBER STUDY PERIOD?**

4 **A33.** Yes. The move from a May Reconciliation Period to a September Study Period results
5 in four months where the operating results will not be monitored or otherwise
6 reconciled. I recommend that the Company be permitted to defer depreciation and the
7 return on new capital, net of anticipated third-party reimbursements, placed in service
8 during this four-month period, through the last date by which the next reconciliation
9 rates become effective subsequent to the January 2020 reconciliation filing. This will
10 ensure the Company earns its return on completed plant in service as of the date such
11 projects are in service. However, there would be no reconciliation of the operating
12 results for items other than plant placed in service for this four-month period.

13 **Q34. HAVE YOU PREPARED A TIMELINE IDENTIFYING THE PERIODS**
14 **COVERED BY THE EXISTING ARM AND THE ONE-STEP ARM YOU ARE**
15 **PROPOSING?**

16 **A34.** Yes. Attachment DND-6 sets forth the anticipated filing dates, rate effective dates and
17 test periods for the budget filing in this docket, the reconciliation filing made in Docket
18 No. 18-00097 was filed on August 31, 2018, and the reconciliation filing proposed in
19 my testimony is to be made on or before January 15, 2020, documenting operating
20 results for the twelve-month period ended September 30, 2019.

1 **PROPOSED METHODOLOGY CHANGES**

2 **IDENTIFY ANY CHANGES IN METHODOLOGIES THAT ARE NECESSARY TO**
3 **ACCOMMODATE A ONE-STEP RECONCILIATION ARM.**

4 **Q35. DO YOU HAVE RECOMMENDED CHANGES TO EXISTING**
5 **METHODOLOGIES TO ACCOMMODATE THE PROPOSAL TO MOVE TO**
6 **A ONE-STEP ARM MECHANISM?**

7 **A35.** Yes. Attachment DND-7 highlights the changes I am proposing to Existing
8 Methodologies in red-line format. Attachment DND-8 provides a clean version of the
9 Existing Methodologies with all edits accepted. Specifically, I relied upon Paragraph
10 13 of the Settlement Agreement, titled “Annual Review Mechanism and Ratemaking
11 Methodologies” and then made recommended modifications to that document.

12 **Q36. WHAT APPROACH DID YOU TAKE IN MODIFYING THE EXISTING**
13 **METHODOLOGIES?**

14 **A36.** My recommendation is to only change the existing methodologies to the extent required
15 to move from a two-step methodology to a one-step ARM, as well as the change in the
16 reconciliation period to the twelve-month period ending September 30. To the greatest
17 extent possible, I relied upon those existing Methodologies as set forth in the
18 Stipulation and Settlement Agreement (Stipulation) in Docket No. 14-00146, modified
19 to reflect Methodology changes that have been adopted by the Parties and the
20 Commission in subsequent dockets. Certainly, if the Consumer Advocate were
21 establishing Methodologies of its own accord, they would undoubtedly differ from

1 those set out in the Stipulation.⁹ However, because the Parties jointly created the
2 process and it will simplify this process, I recommend we move forward using it, with
3 the understanding it was a Settlement Agreement. I reserve the right to recommend
4 modifications to the existing methodologies, unrelated to the forecasted period, if
5 Atmos proposes Methodology changes that are detrimental to the interests of Atmos
6 ratepayers in this Docket, as well as in future ARM filings.

7 **Q37. TURNING TO THE SPECIFIC CHANGES TO THE METHODOLOGY**
8 **RECOMMENDATIONS, ARE THE CHANGES TO BE CONSISTENT WITH**
9 **THE PROVISIONS OF THE TARIFF?**

10 **A37.** Yes.

11 **Q38. IDENTIFY THE MORE IMPORTANT CHANGES TO THE**
12 **METHODOLOGIES SET FORTH IN THE 2014 STIPULATION AND**
13 **SETTLEMENT AGREEMENT IN DOCKET NO. 14-00146.**

14 **A38.** I have modified many of the references to eliminate Forward Looking information and
15 instead have inserted references to require submission of data for the Historic Base
16 Period. However, this information is of the type already included in the annual
17 reconciliation docket; therefore, I do not foresee a net increase in data requirements
18 because of moving to a one-step process. The exception to this is with respect to the
19 requirement to file and provide the budget that aligns with the publicly available

⁹ The Consumer Advocate reserves the right to propose Methodologies that differ from the ones included in the Atmos Stipulation and Agreement in any subsequent filing made by another utility for an ARM.

1 earnings guidance.¹⁰ However, the net result of my recommendation is the preparation
2 of less data provided by Atmos compared with current requirements.

3 As discussed earlier in the section detailing the proposed tariff changes, the move to a
4 one-step process has been incorporated into the changes I am sponsoring to the
5 Methodologies.

6 In addition, I have included Attachments DND -9 through -12, which modify the
7 Methodologies that were agreed to by the Parties in Dockets after Docket No. 14-
8 00146. These are referred to as (Approved) “Deviations from Approved
9 Methodologies”.

10 The topics contained in the revised methodologies include:

11 Attachment DND-9- “Accumulated Deferred Income Tax (ADIT) Forecast”

12 Attachment DND-10- “Removal of Capitalized Incentive Compensation:”

13 Attachment DND-11- “Allocation of Certain Shared Plant Balances”

14 Attachment DND-12- “Regulatory Assets and Liabilities and ADIT Deviations
15 Required by the Tax Cuts and Jobs Act (TCJA)”

16 **Q39. YOU REFERRED TO THESE AS ‘DEVIATIONS FROM APPROVED**
17 **METHODOLOGIES’. ARE MODIFICATIONS TO THESE DEVIATIONS**

¹⁰ The budget would be accompanied by a Verification statement from an officer of the Company attesting to its accuracy and consistency with the corporate budget underlying its earnings guidance.

1 **REQUIRED AS A RESULT OF THE ELIMINATION OF THE BUDGET**
2 **FILING?**

3 **A39.** Yes.

4 **Q40. PLEASE EXPLAIN THE CHANGES NECESSARY IN THOSE AGREED-**
5 **UPON METHODOLOGIES WHICH HAVE BEEN PRESENTED**
6 **SUBSEQUENT TO THE INITIAL METHODOLOGIES IDENTIFIED IN THE**
7 **14-00146 STIPULATION AND AGREEMENT.**

8 **A40.** There are necessary updates to the Methodologies identified in the list of original
9 Methodologies set out in Docket No. 14-00146 that occur due to the passage of time,
10 or simply due to further consideration and refinement. The Deviation to ADIT balances
11 identified on Attachment DND-9 should be eliminated altogether as it describes why
12 the balance of ADIT (and the balance of the Net Operating Loss (NOL)) must be
13 forecasted with the use of forward-looking test periods. The elimination of forecasting
14 the NOL is a significant positive outcome from moving to the one-step process as the
15 modification to the forecasted ADIT and associated NOL necessary with any change
16 in the forecast of plant in service is quite complex and would likely be the source of
17 contention in future two-step ARM filings¹¹. Since the proposed one-step methodology

¹¹ As an aside, the Consumer Advocate continues to believe that Atmos' accounting process to allocate NOL to its Tennessee jurisdiction is not appropriate and may not be consistent with tax normalization requirements. Information is available for Atmos to specifically identify the cumulative tax losses associated with its Tennessee jurisdiction. Since the allocated NOL will differ from the actual NOL associated with its Tennessee jurisdiction, it is not clear how the existing Atmos process meets the IRS requirement that the ADIT balance be properly synchronized with the underlying assets in Rate Base. In my view, the IRS requires a level of specific identification of the NOL that Atmos currently does not maintain.

1 eliminates the forward-looking aspect of identifying rate base, there is no need to
2 forecast ADIT and the related NOL balances.

3 Attachment DND-10 highlights changes to the Removal of Incentive Compensation.
4 The modifications I am supporting simply remove references to the Forward-Looking
5 test year and retain the underlying concept that capitalized incentive compensation
6 costs should not be included in Rate Base.

7 Attachment DND-11 relates to the Allocation of Certain Shared Plant Balances and I
8 do not believe any modification to this Deviation from Approved Methodologies is
9 necessary to move from a forward-looking two-step ARM to a one-step ARM.

10 Attachment DND-12 references the need to reflect actual impacts from the TCJA,
11 rather than inclusion of projected impacts of the TCJA within forward-looking ARM
12 filings. I would note that while for simplification purposes in this Docket the Consumer
13 Advocate is not proposing any modifications within this filing to the amount and
14 amortization periods associated with Excess Accumulated Deferred Income Taxes, it
15 reserves the right to do so within Docket No. 18-00034.

16 **Q41. PLEASE IDENTIFY THE SECOND QUESTION POSED BY TPUC STAFF.**

17 **A41.** The second question is:

18 **Part 1:** Whether the provision for interest at the rate of the Overall Cost of Capital
19 compounded for two years to be added to the Annual Reconciliation Revenue
20 Requirement (whether positive or negative) should be modified if the Forward-Looking

1 Test Year filing requirement and associated annual rate adjustment based on the
2 Forward-Looking Test Year filing are eliminated from the Annual Review Mechanism.

3 **Part 2:** If any modification is recommended: (a) describe the modification in detail;
4 (b) discuss the rationale supporting the modification; (c) detail any advantages and/or
5 disadvantages of making the modification in relation to the Company's capability to
6 earn its Authorized Return on Equity annually on a continuing basis; and (d) set forth
7 with specificity and discuss in detail any related changes to the Company's tariff and/or
8 Approved Methodologies necessary to implement the modification. If no modification
9 is recommended, please discuss in detail the reasons for retaining the provision for
10 interest stated in the Annual Review Mechanism tariff.

11 **QUESTION 2, PART 1**

12 **Q42. SHOULD INTEREST BE ADDED TO ANY REVENUE REQUIREMENT**
13 **DEFICIENCY OR SUFFICIENCY AT THE OVERALL RATE OF RETURN?**

14 A42. Yes. My proposal for the application of a return on any revenue deficiency or excess
15 is set forth in the tariff within the Definition Section, Part H, on Tariff Sheet 34.2.

16 **Q43. SHOULD THE APPLICATION OF THIS INTEREST COMPONENT BE IN**
17 **PLACE FOR TWO YEARS AS IS CURRENTLY THE CASE?**

18 A43. No. With the one-step ARM process, the application of interest should not be
19 calculated for a two-year period. Instead, the carrying charges should be in place from
20 the mid-point of the historic period, which is April 1, through the time period in which

1 rates are approved in the ARM filing. This approval should occur on, or around June
2 1, resulting in the application of interest for approximately fourteen months.

3 **QUESTION 2, PART 2**

4 **Q44. DO YOU HAVE ANY COMMENTS TO ADD CONCERNING THE**
5 **REVISION TO THE STIPULATION AND SETTLEMENT AGREEMENT**
6 **REGARDING THE APPLICATION OF CARRYING CHARGES?**

7 **A44.** Yes. The objective underlying the provision of carrying charges on any revenue
8 deficiency or excess is the same as is contained in the original Stipulation and
9 Settlement Agreement. The ‘compensation’ provided through the application of
10 carrying charges would cover the mid-point of the historic base period through the date
11 immediately preceding the date new rates become effective, estimated to be a total
12 period of fourteen months. The shortening of the time period compared with the
13 twenty-four months built into the existing Methodology is due to the modification to a
14 one-step ARM.

15 The benefit of this approach is that rates resulting from the one-step process would be
16 implemented much sooner than the reconciliation rates within the existing two-step
17 process. The application of carrying charges is expected to be approximately ten
18 months shorter than currently exists. The shortening of this time period over which
19 carrying charges are calculated benefits all stakeholders. Further, it ensures Atmos will
20 be compensated for the cost of money associated with any revenue shortfall, resulting
21 in a mechanism with no Regulatory Lag. Absent a finding of imprudence, or a highly

unusual event creating a significantly distorted historic base period, Atmos will be earning its authorized return on equity.

Q45. PLEASE IDENTIFY THE THIRD QUESTION POSED BY TPUC STAFF.

A45. The third question is:

Part 1: Whether any other modification(s) to the Annual Review Mechanism should be made to provide that the Company earns its Authorized Return on Equity on an ongoing annual basis.

Part 2: For each such modification: (a) describe the proposed modification in detail; (b) discuss the rationale supporting the modification; (c) detail any advantages and/or disadvantages of making the modification in relation to the Company's capability to earn its Authorized Return on Equity annually on a continuing basis; and (d) set forth with specificity and discuss in detail any related changes to the Company's tariff and/or Approved Methodologies necessary to implement the recommended modification.

QUESTION 3, PART 1

Q46. BESIDES THE ITEMS LISTED AND DISCUSSED EARLIER IN YOUR TESTIMONY, ARE THERE OTHER MODIFICATIONS TO EITHER THE TARIFF OR THE STIPULATION AND SETTLEMENT AGREEMENT NECESSARY TO PERMIT ATMOS TO EARN ITS AUTHORIZED RETURN ON EQUITY?

A46. No.

1 **Q47. PLEASE IDENTIFY THOSE ASPECTS OF THE ONE-STEP ARM THAT**
2 **RETAINS THE BENEFITS OF THE TWO-STEP ARM FROM AN ATMOS**
3 **PERSPECTIVE.**

4 **A47.** The benefits to Atmos within its two-step ARM that will remain within the one-step
5 ARM include:

- 6 1. No limitation on capital expenditures, thus resulting in no upper limit on earnings.
- 7 2. No limitation on annual O&M cost increases that may be recovered in the one-step
8 ARM.
- 9 3. No Regulatory Lag within the one-step ARM.
- 10 4. Atmos is compensated for the lag in cash flow from the one-step ARM through the
11 application of carrying charges on any revenue deficiency or excess until the date
12 such rate change is implemented.
- 13 5. The one-time ability to defer depreciation and return on plant placed in service
14 during the four-month period June 2018 through September 2018 provides earnings
15 erosion protection for Atmos as a result of moving the reconciliation period to the
16 Atmos fiscal period ended September 30, 2018.

17
18 **QUESTION 3, PART 2**

19 **Q48. DO YOU HAVE ANY OTHER COMMENTS CONCERNING THE CHANGES**
20 **TO THE TARIFF PROVISIONS OR AGREED-UPON METHODOLOGIES**
21 **NECESSARY TO IMPLEMENT A ONE-STEP ARM?**

22 **A48.** No. I have discussed the benefits and disadvantages of moving to the one-step ARM
23 from the existing two-step ARM earlier in my testimony.

1 **COMMENTS ON TAX ISSUES ARISING FROM THE TCJA**

2 **Q49. HAVE YOU ADDRESSED THE CONSUMER ADVOCATE'S POSITION ON**
3 **THE ISSUES ARISING FROM THE TCJA IN YOUR TESTIMONY?**

4 **A49.** No. The reduction in Income Tax Expense resulting from the change in the rate from
5 35% to 21% will naturally resolve itself due to the existence of the ARM mechanism.
6 The Company has appropriately reflected the lower tax rate in the computation of the
7 budgeted level of income tax expense.

8 **Q50. ARE THERE OTHER MORE COMPLEX ASPECTS OF THE TCJA THAT**
9 **WILL BE ADDRESSED IN THE ATMOS TAX CASE, DOCKET NO. 18-00034?**

10 **A50.** Yes. Other more challenging issues such as defining the appropriate level of
11 unprotected and protected ADIT and how such ratepayer funds should be amortized as
12 a credit to the Atmos revenue requirement will be addressed in the Atmos Tax Docket.
13 While the Consumer Advocate has not addressed Atmos' requested treatment of its
14 excess deferred ADIT, the absence of testimony on this point, in this case, should not
15 be construed as agreement with the position of Atmos. The Consumer Advocate retains
16 all rights to propose alternative regulatory treatment in the Atmos tax docket, from that
17 proposed by Atmos in this Docket.

18 **Q51. DOES THIS CONCLUDE YOUR TESTIMONY?**

19 **A51.** Yes.

ATTACHMENT 1

David Dittmore

Experience

Areas of Specialization

Approximately thirty-years experience in evaluating and preparing regulatory analysis, including revenue requirements, mergers and acquisitions, utility accounting and finance issues and public policy aspects of utility regulation. Presented testimony on behalf of my employers and clients in natural gas, electric, telecommunication and transportation matters covering a variety of issues.

Tennessee Attorney General's Office; **Financial Analyst September, 2017 – Current**

Responsible for evaluation of utility proposals on behalf of the Attorney General's office including water, wastewater and natural gas utility filings. Prepare analysis and expert witness testimony documenting findings and recommendations.

Kansas Gas Service; **Director Regulatory Affairs 2014 – 2017; Manager Regulatory Affairs, 2007 - 2014**

Responsible for directing the regulatory activity of Kansas Gas Service (KGS), a division of ONE Gas, serving approximately 625,000 customers throughout central and eastern Kansas. In this capacity I have formulated strategic regulatory objectives for KGS, formulated strategic legislative options for KGS and led a Kansas inter-utility task force to discuss those options, participated in ONE Gas financial planning meetings, hired and trained new employees and provided recommendations on operational procedures designed to reduce regulatory risk. Responsible for the overall management and processing of base rate cases (2012 and 2016). I also played an active role, including leading negotiations on behalf of ONE Gas in its Separation application from its former parent, ONEOK, before the Kansas Corporation Commission. I have monitored regulatory earnings, and continually determine potential ratemaking outcomes in the event of a rate case filing. I ensure that all required regulatory filings, including surcharges are submitted on a timely and accurate basis. I also am responsible for monitoring all electric utility rate filings to evaluate competitive impacts from rate design proposals.

Strategic Regulatory Solutions; 2003 -2007

Principal; Serving clients regarding revenue requirement and regulatory policy issues in the natural gas, electric and telecommunication sectors

Williams Energy Marketing and Trading; 2000-2003

Manager Regulatory Affairs; Monitored and researched a variety of state and federal electric regulatory issues. Participated in due diligence efforts in targeting investor owned electric utilities for full requirement power contracts. Researched key state and federal rules to identify potential advantages/disadvantages of entering a given market.

MCI WorldCom; 1999 - 2000

Manager, Wholesale Billing Resolution; Manage a group of professionals responsible for resolving Wholesale Billing Disputes greater than \$50K. During my tenure, completed disputes increased by over 100%, rising to \$150M per year.

Kansas Corporation Commission; 1984- 1999

Utilities Division Director - 1997 - 1999; Responsible for managing employees with the goal of providing timely, quality recommendations to the Commission covering all aspects of natural gas, telecommunications and electric utility regulation; respond to legislative inquiries as requested; sponsor expert witness testimony before the Commission on selected key regulatory issues; provide testimony before the Kansas legislature on behalf of the KCC regarding proposed utility legislation; manage a budget in excess of \$2 Million; recruit professional staff; monitor trends, current issues and new legislation in all three major industries; address personnel issues as necessary to ensure that the goals of the agency are being met; negotiate and reach agreement where possible with utility personnel on major issues pending before the Commission including mergers and acquisitions; consult with attorneys on a daily basis to ensure that Utilities Division objectives are being met.

Asst. Division Director - 1996 - 1997; Perform duties as assigned by Division Director.

Chief of Accounting 1990 - 1995; Responsible for the direct supervision of 9 employees within the accounting section; areas of responsibility included providing expert witness testimony on a variety of revenue requirement topics; hired and provided hands-on training for new employees; coordinated and managed consulting contracts on major staff projects such as merger requests and rate increase proposals;

Managing Regulatory Auditor, Senior Auditor, Regulatory Auditor 1984 - 1990; Performed audits and analysis as directed; provided expert witness testimony on numerous occasions before the KCC; trained and directed less experienced auditors on-site during regulatory reviews.

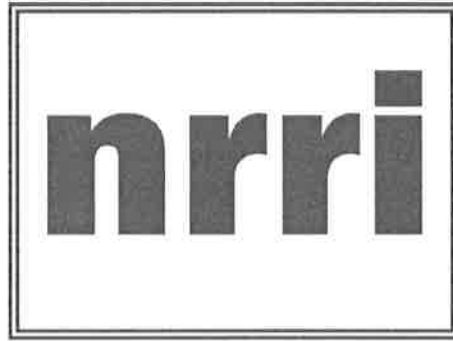
Amoco Production Company 1982 - 1984

Accountant Responsible for revenue reporting and royalty payments for natural gas liquids at several large processing plants.

Education

- B.S.B.A. (Accounting) Central Missouri State University
- Passed CPA exam; (Oklahoma certificate # 7562) – Not a license to practice

ATTACHMENT 2



Future Test Years: Evidence from State Utility Commissions

**Ken Costello, Principal Researcher
National Regulatory Research Institute**

Report No. 13–10

October 2013

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National Regulatory Research Institute

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-

About the Author

Mr. Ken Costello is Principal Researcher, Energy and Environment, at the National Regulatory Research Institute. Mr. Costello previously worked for the Illinois Commerce Commission, the Argonne National Laboratory, Commonwealth Edison Company, and as an independent consultant. Mr. Costello has conducted extensive research and written widely on topics related to the energy industries and public utility regulation. His research has appeared in numerous books, technical reports and monographs, and scholarly and trade publications. Mr. Costello has also provided training and consulting services to several foreign countries. He received B.S. and M.A. degrees from Marquette University and completed two years of doctoral work at the University of Chicago.

Acknowledgments

The author wishes to thank the **state utility commissions** that responded to the survey; the **Indiana Utility Regulatory Commission**; and NRRI colleague **Dr. Rajnish Barua**. Any errors in the paper remain the responsibility of the author.

Executive Summary

In July 2013, the National Regulatory Research Institute (NRRI) published a paper that identified factors for state utility commissions to consider in both deciding whether to allow a future test year (FTY) and executing it when deemed appropriate or required. From a theoretical and public-interest perspective, the paper discussed specific conditions that would mitigate problems with FTYs and help to establish “just and reasonable” rates.

In the course of that study, it was found that little empirical evidence exists on the operation of an FTY from the regulatory perspective: Have FTYs met the expectations of those commissions who strive to establish “just and reasonable” rates? Have commissions confronted serious problems causing them to shy away from using an FTY in their rate proceedings? Do commissions take common actions in reviewing utility forecasts and addressing problems that arise from an FTY? Are there “best practices” that commissions have deployed throughout the years to most effectively use FTYs in setting rates?

This survey paper tries to answer these questions as well as others. NRRI sent out 14 general questions to 21 state utility commissions that have used FTYs in setting utility rates. Fourteen commissions replied. Responses to some questions reflected commonalities across states while other responses were more heterogeneous, suggesting varying experiences and views on the part of those commissions that have applied FTYs in their ratemaking.

One general finding was that most commissions using an FTY have had an overall positive experience, with no thought to discard an FTY in subsequent rate cases. Although in some instances commissions endured initial difficulties, they were able eventually to overcome them. A few commissions reported continuing challenges with (1) evaluating utility forecasts and (2) addressing utility incentives for biasing their forecasts to favor a larger rate increase. Several commissions stressed the importance of auditing, thorough reviews, and reliance on evidence presented during a rate case to determine the appropriate test-year costs.

This paper should provide useful information to three groups of state commissions: (1) those that have used FTYs for a number of years; (2) those that have little or no experience with them but are planning on using FTYs more often in the future; and (3) those that are contemplating the use of FTYs but are under no mandate to do so. Learning from others is a crucial part of improving the effectiveness of any organization, including state utility commissions. By knowing how different states have handled the major challenges with FTYs, other states can benefit by avoiding pitfalls and implementing “best practices” or at least proven practices that can better serve the public.

The survey for this study addresses a broad range of regulatory topics related to FTYs. They include:

- Motivation behind FTYs
- Overall experience and impression

- Problems encountered and corrective actions
- Determination of reasonable costs and sales based on adjustments of utility forecasts or development of independent forecasts
- Responsible party for demonstrating the reasonableness of a utility's forecasts
- Use of a baseline to evaluate forecasts
- Utility methodologies for forecasting operation and maintenance expenses
- Adjustments to the authorized rate of return on equity (ROE) because of reduced regulatory lag
- Determination of costs reflecting prudent utility management
- Increased burden on commissions posed by use of an FTY in rate cases
- Retrospective comparison of forecasted costs (sales) and actual costs (sales)
- Reconciliation of the "used and useful" standard for new projects with an FTY
- True-up adjustments from forecasting errors
- Key factors for determining "just and reasonable" rates from use of an FTY

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Future Test Years: Evidence from State Utility Commissions

I. Purpose of Study

This study provides empirical evidence on the experiences of state utility commissions with future test years (FTYs). As far as the author knows, no other study contains similar information on this topic.

In July 2013, NRRI authored a paper that discussed the arguments for an FTY and why utilities have advocated it for ratemaking.¹ As its major objective, the paper examined the primary components of an FTY and the challenges they pose for state utility commissions. It suggested how commissions can best protect utility customers from the risks that underlie an FTY.² The paper identified information asymmetry as the most serious contributor to risk: It complicates a commission's ability to know whether a utility's forecasts are unbiased and reasonable.³ It enumerated several challenges surrounding an FTY. The major ones are: (1) evaluation of cost and sales forecasts, (2) a utility's incentive to bias its forecasts in support of a larger rate increase, (3) the "ratchet effect" causing distortive utility behavior,⁴ (4) added complexity in rate cases, (5) additional staff requirements, and (6) assurance of prudent utility management or cost efficiency.⁵

¹ Ken Costello, "Future Test Years: Challenges Posed for State Utility Commissions," Briefing Paper No. 13-08, July 2013 at <http://www.nrri.org/documents/317330/d9437527-da9d-4b27-be60-d0eb7f6c52ba>.

² Risks derived from three sources: (a) forecasts are susceptible to error, (b) some costs and sales elements are inherently difficult to predict, and (c) utilities would have incentives to present biased forecasts that are not always easy for commission staff and interveners to uncover.

³ Commissions are at a distinct disadvantage relative to the utility in interpreting and evaluating the utility's performance. Commissions generally lack the knowledge, for example, to detect when the utility is efficient or inefficient, as well as the opportunities for utilities to minimize their costs.

⁴ The "ratchet effect" involves the commission's adjustment of future forecasts based on past forecasting errors. The commission observes the utility's past actual costs to reset a future price. The "ratchet effect" reflects dynamic strategic behavior that could motivate a utility to intentionally inflate its costs to increase the price that a commission will allow in a future rate case.

⁵ Three theoretical reasons exist for why utilities may not achieve maximum cost efficiency. One reason is self-fulfilling predictions to avoid a "ratchet effect." (See the previous footnote.) Another possible reason lies with imputing in an FTY expected cost increases yet to be determined. A utility, for example, might have a weaker incentive to negotiate wage increases below the amount already included in rates. A third reason is the previously discussed information asymmetry, in which a commission would

This survey study focuses on “implementation” factors, problems, and techniques used by state utility commissions in setting utility rates based on FTY calculations. Two commissions responding to the survey indicated that they have approximately 35 years’ experience with FTYs. Although most other commissions have used FTYs for a far shorter time, they provided valuable information on how they mitigated problems with FTYs to ensure “just and reasonable” rates.

Specifically, this study addresses the following ten questions:

1. What commission oversight and other procedures seem to work best?
2. Why was use of an FTY instituted in the first place?
3. Was there a learning curve in which the commission had to acquire new skills and expertise?
4. Do utilities provide a baseline for their forecasts?⁶
5. What indices do utilities use to forecast operation and maintenance (O&M) expenses?⁷
6. How do commissions determine the accuracy of forecasts, which after all is the most important and difficult challenge they face with an FTY? Are the forecasts, for example, reasonably accurate and compatible with prudent utility management?
7. Do utilities have an incentive to misreport their costs and sales to justify a higher rate increase?⁸
8. Who has the burden of proof in determining reasonable forecasts?⁹

find it difficult to identify imprudent costs in a utility’s rate filing. As such, the threat of disallowed costs lessens, thereby removing an important tool for commissions to control a utility’s costs.

⁶ As part of standard reporting in rate cases, commissions may require a utility to provide a verifiable link or bridge between an historical and a future test year as a point of reference. Without this benchmark, parties reviewing a utility’s filing would find it more difficult to review the forecasts. As an example, the historical test year can represent the baseline.

⁷ Global Insight, for example, forecasts inflation rates for labor, materials, and services used by utilities; it also provides price indexes for detailed O&M expenses itemized in the Uniform System of Accounts. A utility might also use some macro inflation index, such as the GDP Implicit Price Index.

⁸ Although utilities would have a similar incentive under an HTY, their ability to avoid detection of misreported costs and sales would appear to be greater under an FTY. One reason is that utilities can more easily hide “inflated costs” when making forecasts rather than reporting their actual costs, which are subject to strict audits. When a utility makes a false report of its actual costs, it can suffer a severe sanction. No such penalty occurs when the utility makes an inaccurate forecast.

9. Do commissions take into account the lower risk to utilities, relative to an historical test year (HTY), in authorizing the rate of return on equity (ROE)?¹⁰
10. How do commissions treat costs for a new project that is not in service at the time of a rate case?¹¹
11. Do commissions allow for true-ups or post adjustments when forecasts turn out to be substantially in error?
12. What are the key factors in setting “just and reasonable” rates¹² when using an FTY?

II. Background on Future Test Years

State statutes, rules, and practices have laid out three distinct conditions for use of an FTY: (1) The commission must use an FTY under all circumstances, (2) the commission must use an FTY if the utility proposes one, and (3) the commission has the discretion to choose a test

⁹ One basic question centers on who has the burden of proof in providing information in support of its position. Assume that a utility proposes an FTY. Should the utility have the duty to show that its forecasts are reasonable, or do other parties have the duty to demonstrate that the utility’s forecasts are unreasonable? Who has the burden of proof could influence the commission’s decision.

¹⁰ To the extent that an FTY better forecasts, relative to an HTY, costs and sales for future periods (i.e., the rate periods), as argued by FTY proponents, it should improve a utility’s financial condition (e.g., interest coverage, credit rating) and lower its risk. (See, for example, Mark Newton Lowry et al., *Forward Test Years for U.S. Electric Utilities*, prepared for the Edison Electric Institute, August 2010, 49-52 at http://www.eei.org/whatwedo/PublicPolicyAdvocacy/StateRegulation/Documents/EEI_Report%20Final_2.pdf).

¹¹ FTYs may pose a special problem for commissions in dealing with unexpected delays, cost overruns, and even the cancellation of new capital projects. If the utility’s forecast turns out to be overly optimistic, customers may end up paying for new capital projects prior to in-service status. As an example, a commission may approve a 2014 test year that included costs for a new electric transmission facility expected to be in service by June of that year. Assume that the facility encounters delays that set a new expected completion date of late 2015. Customers are then paying for the facility without receiving any benefits from it. This prepayment might not pose a problem in states that allow, for example, CWIP in rate base, but for other states it could.

¹² Legal precedent dictates that commissions must set reasonable rates that allow a prudent utility to operate successfully, maintain its financial integrity, attract capital, and compensate its investors in line with actual risks. (The U.S. Supreme Court outlined these conditions in its 1944 order for *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 605 (1944).) The Court’s decision emphasized the results reached, not the methods used. One obvious implication is that the most appropriate test year would best produce “just and reasonable” rates.

year, including an historical, future, or hybrid year.¹³ The last condition allows the commission to weigh the evidence in deciding on what test year the utility should use.¹⁴

A recent study noted that:

Forward test years were adopted in many jurisdictions during the 1970s and 1980s when rapid price inflation and major plant additions coincided with slowing growth in average use...Several additional states have recently moved in the direction of FTYs. Many of these states are in the West, where comparatively rapid economic growth has required more rapid build out of utility infrastructure.¹⁵

A 2012 survey reported that 23 states allow or require commissions to use an FTY for ratemaking, at least for electric utilities.¹⁶ In addition to Indiana, which the survey did not include, the other most recent states passing legislation that allow an FTY are Pennsylvania and New Mexico.¹⁷ Over half of the states now allow the use of a test year other than historical, and this number has grown over time.¹⁸

¹³ The third condition is the most common of the three.

¹⁴ One example is Utah. *Section 54-4-4(3) of the Utah Code Annotated* states:

If in the commission's determination of just and reasonable rates the commission uses a test period, the commission shall select a test period that, on the basis of evidence, the commission finds best reflects the conditions that a public utility will encounter during the period when the rates determined by the commission will be in effect.

The Public Service Commission of Utah has identified eight factors for selecting a test year. They are: (a) the general inflation rate; (b) changes in the utility's investments, revenues, or expenses; (c) changes in utility services; (d) the availability of accurate data to non-utility parties; (e) the ability to match the utility's investments, revenues, and expenses; (f) whether the utility's costs are increasing or decreasing; (g) incentives to efficient management; and (h) the expected length of time for new rates. (Public Service Commission of Utah, *In the Matter of the Application of PacifiCorp for Approval of Its Proposed Electric Service Schedules and Electric Service Regulations, Order Approving Test Period Stipulation*, Docket No. 04-035-42, October 20, 2004.)

¹⁵ See Pacific Economics Group Research, *Alternative Regulation for Evolving Utility Challenges: An Updated Survey*, prepared for the Edison Electric Institute, January 2013, 29 at http://www.eei.org/whatwedo/PublicPolicyAdvocacy/StateRegulation/Documents/innovative_regulation_survey.pdf. Since this survey, Indiana has allowed utilities to use an FTY.

¹⁶ See Pacific Economics Group Research, *Alternative Regulation for Evolving Utility Challenges: An Updated Survey*.

¹⁷ As of the time of this writing, Pennsylvania has just completed a rate case using an FTY for the first time; a rate case is before the New Mexico Public Regulation Commission in which the

A. Test year as the base for ratemaking

A test year is the foundation for utility ratemaking: It forms the basis for computing the required revenue increases for a utility to have a reasonable opportunity to recover its costs plus earn a sufficient rate of return to attract new capital in serving the long-term interest of its customers.¹⁹ A test year represents a 12-month period over which the utility calculates its revenues and costs (i.e., revenue requirements) to determine the size of a rate increase. For example, in determining the required rate increase to overcome a revenue deficiency, the commission compares the revenue requirement and revenues under present rates. Specifically, revenue deficiency equals

$$RR_{ty} - GR_{pr}$$

RR_{ty} equals the test-year determined revenue requirement, and GR_{pr} equals the test-year determined gross revenues under present rates. At the core of a test year is the “matching principle” for achieving consistency between costs and revenues. The utility would thus consider jointly revenue requirements and billing determinants in setting new rates.

A commission would allow a rate increase when evidence shows that the utility would suffer a shortfall in revenues under present rates to meet its revenue requirement. If a commission approves, for example, a rate increase of 5 percent, it judges that rates must rise by this amount for the utility to cover its revenue requirements. The commission based its decision on test-year data. Using an FTY instead of an HTY, for example, would inevitably lead to a different commission ruling on the required rate increase.

B. Different test years

There are three general groupings of test years (*see* Figure 1). Assume that a utility files a rate case in February 2013. An HTY would be 2012, in which the utility would have actual data for the 12-month period. An HTY uses data for a 12-month period that ends prior to a rate filing. A partially future or hybrid test year could cover 2013.²⁰ An FTY could be the calendar

petitioning utility has proposed an FTY; and no utility has yet come forward in Indiana proposing an FTY.

¹⁸ Both utilities and commissions would more likely favor an FTY when average cost increases. This condition occurs when the combined growth in input prices and levels exceeds the growth in sales. For example, with moderate to high inflation, large investments in new facilities, and slow sales growth, average cost would likely rise. Failure to account for the higher average cost in setting rates would likely lead to more frequent rate cases and revenue deficiencies.

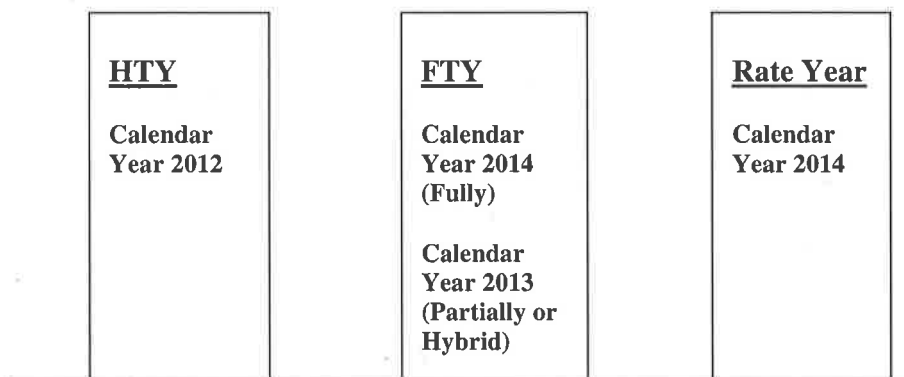
¹⁹ To balance utility-customer and -investor interests, the revenue increases should be no more than are necessary to achieve financial health for the utility.

²⁰ The test year would then include actual data as well as forecasts. As the rate case proceeds, the utility could increasingly substitute actual data for forecasts.

year 2014. The FTY, in its purest form, forecasts all the costs and sales elements for the first 12 months of new rates. An FTY, therefore, begins after the completion of a rate case and normally at the time when new rates would go into effect.²¹

Using one kind of test year rather than another would inevitably lead to different calculations for revenue requirements and revenues under present rates. The selection of a test year, therefore, plays a pivotal role in determining new rates.

Figure 1: Different Test Years (Rate Case Filed in February 2013)



²¹ Generically, an FTY can begin after the period of the latest available actual data for costs and sales.

III. Survey Approach

NRRI sent out 14 general survey questions on August 7, 2013 to 21 state utility commissions that allow FTYs (*see* Appendix A).²² Some states did not respond, and two states (Louisiana and Maine) replied that they have never used a FTY in a rate case.²³ In total, NRRI received responses from 14 commissions. The vast majority of responding states answered all the questions.

Although 14 responses might at first glance seem low when compared with the total number of state utility commissions, they represent over 70 percent of the states that allow an FTY. Two of the states indicated that they have approximately 35 years of experience with FTYs; other commissions have used FTYs for several years. The survey responses as a whole should provide a fairly comprehensive and accurate picture of how state commissions have dealt with FTYs in rate cases. In particular, they show how commissions have addressed the challenges that FTYs pose in setting “just and reasonable” rates.

IV. Summary of Survey Responses

NRRI received 14 responses from state utility commissions (*see* Appendix B). The majority of responses for some questions were uniform; responses to other questions were more heterogeneous, reflecting the varying experiences and views of those commissions that have used FTYs.

One general finding was that most commissions using an FTY have had an overall positive experience. Although in some instances these commissions endured initial difficulties, they were able eventually to overcome or at least mitigate them. A few commissions reported that they were still struggling with certain problems, such as evaluating utility forecasts and

²² The author identified those states from reviewing different sources that listed states allowing an FTY. The author had to use some judgment, as these sources do not count the same number. NRRI decided not to send out the survey to three commissions—Indiana, New Mexico, and Pennsylvania—that presently allow an FTY but have either no or minimal experience with it.

²³ The Maine commission stated that:

There has been no specific action by the Maine Public Utilities Commission (MPUC) addressing the use of a future test year. In some circumstances, the MPUC has allowed the use of a test year end rate base but typically uses a historical test year with adjustments for known and measurable changes to determine the revenue requirement. Pursuant to Maine Law Court precedent, we also allow for attrition which involves projected sales via a sales forecast and generally trending expenses based upon an inflation factor. The use of these types of attrition adjustments to determine test year revenue and expenses has some characteristics similar to a future test year.

dealing with utility incentives for biasing their forecasts to favor a larger rate increase. Several commissions stressed the importance of auditing, thorough review, and reliance on evidence presented during a rate case to evaluate utility forecasts. These commissions ostensibly believe that a sufficient record with evidence provided by diverse interveners would allow them to make an informed decision.

A summary of the responses to the 14 questions follows:

1. Most state commissions initiated the decision to use an FTY.

They rationalized that under certain conditions, an FTY was appropriate, for example to reduce (a) regulatory lag,²⁴ (b) the discrepancy between actual and test-year costs, and (c) the frequency of rate cases. A number of commissions felt that an FTY offered these advantages, compared with an HTY. As summarized by one commission, “The propriety or impropriety of a test year depends upon how well it accomplishes the objective of determining a fair rate of return in the future.” In other states, such as Kentucky, Michigan, Mississippi, and Utah, the legislature authorized the commission to use an FTY.²⁵

2. Most reported commissions expressed confidence in using an FTY.

They have had overall positive experiences, with no thought to discard an FTY in subsequent rate cases. Two commissions felt that that an FTY posed no additional problems over an HTY.²⁶ One commission derives its confidence from the review of the forecasts by an independent certified public accountant. Some commissions did report, however, some initial transitional difficulties. One commission noted reduced problems after it hired a consultant to provide training to staff on FTYs. One problem reported by a few commissions was evaluating the reasonableness of budget data as forecasts. Some commissions also said it took some time for them to reach a comfort level with an FTY.²⁷ One commission stressed the difficulty of selecting the most appropriate test year in individual rate cases. Another commission identified the problem of approving capital expenditures for plant additions not yet incurred.

²⁴ “Regulatory lag” refers to the time gap between when a utility undergoes a change in cost or sales levels and when the utility can reflect these changes in new rates.

²⁵ The survey did not ask whether the commission has to use an FTY when a utility files one.

²⁶ Some of the respondents presumably have never worked with an HTY, so their answers were more speculative in nature than based on actual experiences.

²⁷ One commission expressed enough concern about utility forecasts that it plans to open an investigation in the near future.

3. Most commissions make adjustments to utility forecasts.

A few commissions (e.g., New York, Wisconsin) develop independent forecasts for utility sales. Most frequent, commission staff and interveners use utility forecasts as the starting point for determining reasonable forecasts. Forecasting requires substantial expertise and resources that several commissions presumably feel they lack.²⁸

4. Almost all of the commissions reported that the burden lies with a utility to demonstrate the reasonableness of its forecasts.

One commission mentioned that the burden lies with commission staff or interveners to show that the utility's forecasts were inappropriate. As another commission reported, some interveners simply attempt to discredit the utilities' forecasts, while others file their own testimony with independent forecasts. Another commission noted that interveners and staff provide information in addition to the utility's forecasts to build a complete record for the commission to make its determination of reasonableness. One commission identified several filing requirements for utilities to demonstrate the reasonableness of their forecasts. Most commissions presumably take the view that utilities possess superior expertise in accessing and interpreting relevant information to use in forecasts. In theory, efficiency and "fairness" considerations dictate that the party with the best access to information should have the burden of proof. Most commissions seem to concur with this belief.

5. Most commissions require or encourage a utility to present historical data along with its FTY forecasts.

In many instances, the historical data acts as a baseline to "bridge" the past with the future. As part of standard reporting in rate cases, several commissions indicated that they mandate or encourage utilities to provide a verifiable link or bridge between an historical and future test year as a point of reference.²⁹ Presumably, in the absence of this information, commission staff and interveners would find it more difficult to evaluate the validity of utility forecasts. One commission even requires utilities to file information on its five most recent calendar years' financial results.

²⁸ One interpretation is that some commissions may also feel that it is not their role to develop independent forecasts: Utilities have better information on market conditions and their operations than they do.

²⁹ The historical test year can represent the base year. One definition of the base year is the most recent calendar year for which the utility had information in preparing its rate case. One respondent defines the HTY as consisting of operating results, with normalizing adjustments, for a 12-month period expiring at the end of a calendar quarter no earlier in time than 150 days before the date of filing.

6. Utilities use different indices and methods to forecast operation and maintenance (O&M) expenses. Several commissions found problems with budget data for forecasting.

Some utilities use Global Insight indices,³⁰ while others use the GDP Implicit Price Index. One commission averages two different indices to arrive at a forecast. Another commission requires utilities to decompose an increase in forecasted O&M expenses (classified by function and cost element) caused by inflation and activity level.³¹ Other respondents did not indicate whether they evaluate a change in expenses from historical levels by reviewing the utility assumptions about the inflation rate and change in activity levels, with each quantified and properly supported. Six commissions noted problems with using budget data to derive forecasts. They included the difficulty of doing independent verification, the conversion of budget data to a regulatory cost-of-service format, and the interpretation of budget data; for example, are they a “wish list” or an actual forecast?

7. No commission reported adjusting downward a utility’s rate of return on equity (ROE) from use of an FTY.

One commission said that any reduction in utility risk would reveal itself in the estimated cost of capital. As another commission expressed, “Decisions about utility specific risk factors are embedded in the selection of a comparable group of utilities on which the ROR and ROE analysis is based.” One commission commented that the tradeoff between certainties within an HTY versus the forecasts of an FTY would dictate which has more risk. For those commissions that have no or little experience with an HTY over the last several years, it is understandable that they would not make any adjustments in the absence of a reference point.

8. A common response was that a commission can best determine that a utility’s cost forecasts reflect prudent management by auditing, thorough review, and reliance on evidence presented during a rate case.

Only a couple of commissions reported that utilities have an incentive to overstate their costs.³² One commission expressed that utilities seem to pad their cost forecasts

³⁰ Global Insight forecasts inflation rates for labor, materials, and services used by utilities; it also provides price indexes for detailed O&M expenses itemized in the Uniform System of Accounts.

³¹ For example, the change in cost function “i” (e.g., administration expenses) can equal $\Delta \text{Cost}_i = \Delta \text{Activity}_i \cdot \Delta \text{Cost per Activity}_i$, which depends on both the change in activities and the inflation rate for labor and other inputs. In evaluating a cost change, commission staff and interveners could review the utility’s assumptions about the inflation rate and change in activity levels.

³² Although not explicitly stated, the presumption may be that a utility would get caught if it attempted to inflate cost forecasts, either in a current rate case (e.g., via auditing or commission review) or afterwards, as the “ratchet effect” would adjust a utility’s cost forecasts downward based on past inflated forecasts (see footnote 4).

to increase the chances of meeting or exceeding their authorized rate of return. One reason might be that utilities expect the commission to lower their cost forecasts, so they would tend initially to file inflated costs. One commission noted that a one-year litigated rate plan limits the incentive to inflate cost forecasts, as the effect is short lived because actual rate-year costs become the basis for the next test year; the same commission remarked that multiyear rate plans that contain an earnings sharing component also limit any benefits from erroneous cost forecasts.

9. Most commissions made minimal adjustments in their internal operations when initially using an FTY.

Some commissions reported that they had to acquire new staff expertise. Almost all commissions replied that a FTY took little if any time away from addressing other rate case topics. Only one respondent mentioned that given the limited time for rate cases and the complexity of evaluating forecasts, parties may have insufficient time to assess a utility's forecasts.

10. Most commissions make adjustments, or consider making adjustments, to cost forecasts based on past forecasting errors.

They indicated that they use different methods to measure forecasting error, including simply calculating the variance between actual and forecasted costs. Most respondents factor the accuracy of past forecasts in evaluating current forecasts. Commissions can then compare the actual costs with what the utility forecasted in a previous rate case. One commission uses what it calls a budget-to-actual analysis to uncover any consistent variance in one direction or the other. Another commission attempts to reconcile test-year forecasts with actual costs. Although not accounting for past forecasting errors, one commission requires electric and gas utilities to submit an O&M benchmark analysis with their rate-case filings, in order to test the reasonableness of the forecasted O&M expenses. If the forecasted expenses are higher than those calculated under the benchmark methodology, the commission requires the utility to provide justification for the variance.

11. Several commissions review the accuracy of past sales forecasts.

Some commissions reported evidence of under-forecasting sales.³³ One commission, in contrast, noted that electric utilities have over-forecasted sales over the past few years. There seems to be less commission scrutiny of utility sales than costs in a rate case. This observation is somewhat puzzling, as sales and costs together determine new rates. One possible explanation is that the popularity of revenue decoupling has lessened the importance of accurate sales forecasts.

³³ Under-forecasts have the effect of justifying a higher rate increase, in the same way that over-forecasts of costs would.

12. Most FTY states subject to a “used and useful” standard include major capital projects as part of the revenue requirement, as long as (a) the commission found the costs prudent and (b) a project is scheduled for in-service during the test year.

One commission allows utilities to recover their costs outside of a general rate case, as long as the projected in-service date is within 18 months of the closing of a rate case. Two commissions allow for step increases to synchronize a rate change with the in-service date.³⁴ One commission that uses a multiyear rate plan remarked that projects scheduled for in-service would be included in the revenue requirements for the year of their completion.

13. A few commissions indicated that they make post-adjustments to rates when actual costs or revenues have deviated from their forecasted levels.

They focus on different components, with some making revenue true-ups (e.g., via revenue decoupling), one making power cost adjustments, and others making adjustments when the actual rate of return departs from the authorized level (e.g., via formula rates or rate-stabilization plans). These post-adjustments deviate from traditional ratemaking practices, which change rates only at the end of a general rate case.³⁵ One respondent noted that the commission can always call a utility in for a rate review if earnings are too high, with the option to make rates subject to refund from that time on, pending review of the financial information.

14. A major factor in setting “just and reasonable” rates by using an FTY is good auditing, a thorough review of a utility’s forecasts, and reliance on evidence presented during a rate case.

Having an expert staff is also a contributing factor. Good communications between parties and staff objectivity are a third group of factors identified by one commission. Some commissions noted that an open and transparent process is a key factor. Other commissions said that true-up mechanisms constrained a utility’s actual rate of return within a tolerable band to assure “just and reasonable” rates.

³⁴ For one of the states, when a large project receives certification, rates then increase.

³⁵ The exception is when a utility has a tracker or rider that allows recovery of specified costs outside of a rate case.

Appendix A: Survey Questions

1. What was the impetus behind your state allowing a future test year (FTY)?
 - a. Did your state pass legislation that would allow it?
 - b. Did your commission initialize action—for example, in an order or rulemaking?
 - c. What was the major reason for allowing an FTY in your state? Was there, for example, recognition that giving utilities an option to file an FTY would be appropriate under certain conditions?
2. What has been your commission's experience so far with FTYs?
 - a. What problems have arisen? For example, has your commission found it difficult to evaluate certain forecasts or found staff lacking sufficient time to evaluate a utility's forecasts?
 - b. Has your commission shied away from an FTY because of problems?
 - c. Does the commission feel confident in evaluating forecasts to determine new rates?
 - d. Was there a learning curve that your commission had to go through in gaining comfort with an FTY? What problems would you expect a commission to confront when first using an FTY?
 - e. What is your commission's overall experience with FTYs?
3. Does your staff make independent forecasts, or does it make adjustments to the utility's forecasts?
4. Does your commission require a utility to demonstrate the reasonableness of its forecasts, or do interveners and staff have the burden to demonstrate the unreasonableness of the utility's forecasts?
5. Does your commission require a baseline from which to evaluate a utility's forecasts?
 - a. If yes, how does it define the baseline?
 - b. Does the utility, for example, have to file an HTY as a baseline?

6. What methodologies or indices do utilities usually use to forecast operation and maintenance (O&M) expenses?
 - a. Is there a specific inflation index (e.g., Global Insights, GDP Implicit Price Index) that utilities used?
 - b. Do commission staff see any problems in a utility's using budget data to forecast O&M expenses?
7. Does your commission view an FTY relative to an HTY as reducing a utility's risk, thus justifying a lower authorized rate of return?
8. How does your commission determine that the cost forecasts reflect prudent utility management?
 - a. What actions has the commission taken in assuring that customers are not paying for unreasonable or imprudent costs?
 - b. Does your commission believe that utilities have an incentive to misreport their costs and sales to justify a higher rate?
9. What adaptations did your commission make when first allowing utilities to file an FTY?
 - a. Did the commission have to hire new staff and staff with different expertise?
 - b. Did the commission have to devote less time to other rate case matters?
10. Does your commission retrospectively compare the utility's forecasted costs allowed in rates with actual costs?
 - a. If it does, what methodology does it use to measure the difference?
 - b. Is there any evidence that a utility has consistently over-forecasted costs?
 - c. If so, has your commission made adjustments to subsequent cost forecasts reflecting past forecasting errors?
11. Does your commission retrospectively compare the utility's forecasted sales allowed in rates with actual sales?
 - a. If it does, what methodology does it use to measure the difference?
 - b. Is there any evidence that a utility has consistently under-forecasted sales?
 - c. If so, has your commission made adjustments to subsequent sales forecasts reflecting past forecasting errors?

12. If your commission requires a project to be “used and useful” before a utility can recover any of its costs from its customers, how does this mandate reconcile with an FTY?
 - a. Does your commission, for example, exclude the project cost as part of the revenue requirement in a general rate case?
 - b. Does your commission, as an alternative, add the project cost to rates only after (1) the project comes on line and (2) the commission has determined the cost to be prudent, in a separate proceeding?
13. Does your commission make any true-ups or post-adjustments to rates when a utility’s actual costs or sales depart from their forecasts? If it does, what are the necessary conditions?
14. From your experience, what would you identify as key factors in assuring utility customers that rates based on an FTY are “just and reasonable”?

Appendix B: State-by-State Survey Responses

State	<p>1. What was the impetus behind your state allowing a future test year (FTY)?</p> <p>a. Did your state pass legislation that would allow it?</p> <p>b. Did your commission initialize action—for example, in an order or rulemaking?</p> <p>c. What was the major reason for allowing an FTY in your state? Was there, for example, recognition that giving utilities an option to file an FTY would be appropriate under certain conditions?</p>
Alabama	<p>(FTYs apply only to major gas utilities) (a) No, (b) Yes, (c) The Alabama Public Service Commission employs a formulaic approach, Rate Stabilization and Equalization (Rate RSE), as opposed to traditional rate case methodology. Rate RSE had been in place for several years, but it was proving to be too cyclical. The quarterly test periods were leading to increases or decreases “pancaking” on each other before they affected the bottom line. Thus, a FTY was employed to stabilize rates and income.</p>
Connecticut	<p>Connecticut often approves multi-year rate plans where the starting point is the test year. Test year adjustments are made to arrive at the adjusted test year and additional pro forma adjustments are made to arrive at a Company’s rate year request. Subsequent years of a multi-year rate plan are additive to the forecast results of the Company’s rate year request. PURA reviews actual test year results as well as previous periods, generally 3-5 years as well as forecast/budgeted amounts and underlying assumptions. This is in keeping with PURA’s charge of maintaining just and reasonable rates; (a) No, (b) No, (c) Multi-year rate plans were seen as providing rate stability to customers while avoiding the costs associated with more frequent rate applications and to reduce regulatory lag for utilities.</p>
Florida	<p>(a) No. In an electric rate case from 1981 (Docket No. 810002-EU) a party had asserted that Section 366.06(1), F.S., which refers to “a current record of the net investment . . . in property “used and useful”” precluded the use of a projected test period. The Commission noted that it did not subscribe to such a narrow interpretation and that our statute did not specify that a particular type of test period must be used, and instead cited to a former court case that observed that “the propriety or impropriety of a test year depends upon how well it accomplishes the objective of determining a fair rate of return in the future.” The Commission concluded that it had “the lawful authority to approve, analyze and utilize for ratemaking purposes the projected data presented and supported by the Company in this case.” (b) Through orders, (c) See <i>Response 1(a)</i> above.</p>

State	<p>1. What was the impetus behind your state allowing a future test year (FTY)?</p> <p>a. Did your state pass legislation that would allow it?</p> <p>b. Did your commission initialize action—for example, in an order or rulemaking?</p> <p>c. What was the major reason for allowing an FTY in your state? Was there, for example, recognition that giving utilities an option to file an FTY would be appropriate under certain conditions?</p>
Illinois	Illinois has allowed a future test year since before 1982; (a) No, (b) The use of a future test year was addressed in rulemaking and prescribed in 83 Ill. Adm. Code 285 and in General Order 210 prior to 1982. The use of a future test year is now codified in 83 Ill. Adm. Code 287, (c) Unknown.
Kentucky	(a) Yes, (b) Yes, however, on appeal by the Office of the Attorney General, the decision was overturned and the matter was ultimately addressed via legislation, (c) Utilities' low actual returns compared to allowed returns.
Michigan	(a) Yes, (b) and (c) Unsure.
Minnesota	(a), (b) Yes - Minn. Rules, parts 7825.3800 through 7825.4600 allow the use of a projected fiscal year for the rate-case test year, (c) Don't know; FTYs (i.e. projected fiscal years) have been allowed and used by most utilities for over 30 years.
Mississippi	(a) Yes, (b) Our Commission has approved formulary rate plans for one electric IOU and two natural gas utilities which provide for future test years; both electric IOUs in the state filed rate cases in early 2000s with projected test years, (c) FTYs were approved long ago in the state; I do not know the reasoning other than to more accurately calculate rates.

State	<p>1. What was the impetus behind your state allowing a future test year (FTY)?</p> <p>a. Did your state pass legislation that would allow it?</p> <p>b. Did your commission initialize action—for example, in an order or rulemaking?</p> <p>c. What was the major reason for allowing an FTY in your state? Was there, for example, recognition that giving utilities an option to file an FTY would be appropriate under certain conditions?</p>
New York	<p>Periods of extraordinary capital expansion and rapid changes in operating conditions that occurred during the early 1970's was the impetus behind New York State moving to a FTY; (a) No, (b) Yes, in a 1972 Con Edison rate case, the Commission urged utilities to submit, in addition to an historical test period, a projected test year consisting of the most recent 6-months' actual experience and 6-months' forecast data on the theory that the most recent results would be a better proxy for the future than a fully historic test period. Over the course of several years, the use of this data set, along with the associated updates of the partially forecast test periods, as actual results became known, led to a record that included eight different test periods, which the Commission viewed as unworkable. As a result, the Commission issued a <i>Statement of Policy on Test Periods in Major Rate Proceedings</i> on November 23, 1977 in Case 26821 that set a clear, specific policy on test years, designed to enhance the Commission's ability to set rates properly for the future; (c) The major reason for allowing FTY was to better align cost recovery with incurred costs. The goal in setting rates is to accurately reflect what the utility's revenues, operating expenses and conditions will be in the period for which rates are set (the "Rate Year"). The rates should then produce the required revenues in the period during which those rates will be in effect.</p>
Oregon	<p>The impetus of a future test year is the idea that the costs and revenues should be reflective of the time period that the rates will be in effect. The Oregon PUC has a long history of using future test periods.</p>

State	<p>1. What was the impetus behind your state allowing a future test year (FTY)?</p> <p>a. Did your state pass legislation that would allow it?</p> <p>b. Did your commission initialize action—for example, in an order or rulemaking?</p> <p>c. What was the major reason for allowing an FTY in your state? Was there, for example, recognition that giving utilities an option to file an FTY would be appropriate under certain conditions?</p>
Tennessee	<p>At least since 1986, the Authority has used a future test year, which has played a big part in rate cases. The premise was to set rates at a level that would be reasonable for the foreseeable future. The agency reasoned that a future period better reflected the foreseeable future; (a) No, (b) In an Authority order in addition to a Tennessee Court of Appeals Order: “The Commission (now authority) has the discretion to choose a historical test period, a forecasted period, a combination of the two, or any other accepted method in rate making.” [<i>American Association of Retired Persons v. Tennessee Public Service Commission</i>, 896, S.W.2d 127 (Tenn. Ct. App. 1994)]; (c) The agency chooses the test periods on which rates are set and historically the agency’s goal is simply to choose a period and/or amounts that best reflect the results of the utility in the foreseeable future.</p>
Utah	(a) Yes, (b) No, (c) An FTY would be appropriate under certain conditions.
Wisconsin	The Commission has used a future test year approach for at least 35 years and there is no knowledge available regarding the transition to a future test year.
Wyoming	(a) No, (b) No.

State	<p>2. What has been your commission's experience so far with FTYs?</p> <ul style="list-style-type: none"> a. What problems have arisen? For example, has your commission found it difficult to evaluate certain forecasts or staff lacking sufficient time to evaluate a utility's forecasts? b. Has your commission shied away from an FTY because of problems? c. Does the commission feel confident in evaluating forecasts to determine new rates? d. Was there a learning curve that your commission had to go through in gaining comfort with an FTY? What problems would you expect a commission to confront when first using an FTY? e. What is your commission's overall experience with FTYs?
Alabama	<p>(a) There never seems to be enough time, but as RSE allows for continuous correction and monitoring, it works out, (b) No, (c) Yes, (d) Certainly, there were things that we had to learn. We had to delve heavily into the budget process, both on the revenue and expense side. We had to hone our expertise in comparing last year to this year, including "getting down into the weeds" occasionally to determine whether budget assumptions were correct or needed to be refined, (e) Good.</p>
Connecticut	<p>(a) Connecticut has one of the shortest review periods for rate cases in the country, which is 150 days extendable to 180 days pursuant to §16-19(b) of the General Statutes of Connecticut (Conn. Gen. Stat.); this short timeframe makes it challenging to evaluate forecasts, (b) No, Connecticut continues to evaluate rate years based on historical data with known changes and future years of rate plans using a combination of inflation adjusted accounts and testing budgeted assumptions, (c) Yes, however taking into consideration the short time frame mentioned above, it is a challenging task to accomplish, (d) Developing a comfort level with a particular utility's forecasts and a willingness to except some uncertainty around the "used and useful" principle is part of the process. Part of the uncertainty can be managed through subsequent order compliance for assurance of expenditures, (e) Up to this point, it has been positive.</p>

State	<p>2. What has been your commission's experience so far with FTYs?</p> <p>a. What problems have arisen? For example, has your commission found it difficult to evaluate certain forecasts or staff lacking sufficient time to evaluate a utility's forecasts?</p> <p>b. Has your commission shied away from an FTY because of problems?</p> <p>c. Does the commission feel confident in evaluating forecasts to determine new rates?</p> <p>d. Was there a learning curve that your commission had to go through in gaining comfort with an FTY? What problems would you expect a commission to confront when first using an FTY?</p> <p>e. What is your commission's overall experience with FTYs?</p>
Florida	<p>(a) Generally, no; the utilities proposing a projected test year have the burden of proof to adequately support the reasonableness of their projections, typically with prefiled testimony of individuals knowledgeable of various aspects of the projections; Staff evaluates the reasonableness and sufficiency of the record presented, (b) No, (c) Yes, (d) No, (e) See <i>Response 2(a)</i>.</p>
Illinois	<p>(a) A future test year is no more difficult than a HTY, (b) No, (c) the Commission relies heavily on the review of the forecasts by an independent certified public accountant that examines the preparation and presentation of the utility schedules supporting the future test year in terms of their compliance with the Guide for Prospective Financial Information by the American Institute of Public Accountants, (d) Yes, (e) Positive</p>
Kentucky	<p>(a) No major problems – time is no more an issue than in HTY cases; the legislation on FTYs extended the suspension period by one month, from 5 to 6, (b) No, (c) Generally yes, (d) There was a learning curve; however, this was somewhat mitigated by the Commission hiring a consultant to provide training to staff on FTYs, (e) Mixed, as some utilities do a better job in their forecasting than others and the majority of cases that have been filed using an FTY have been resolved via settlements between the utility and interveners.</p>
Michigan	<p>(a) Certain forecasts are more difficult than other to evaluate but we would not necessarily characterize this as a problem, (b) The law allows for it, but the Commission has not rejected a FTY to date, (c) Don't know, (d) Don't know, (e) The Commission have reviewed 20 cases that use an FTY.</p>

State	<p>2. What has been your commission’s experience so far with FTYs?</p> <p>a. What problems have arisen? For example, has your commission found it difficult to evaluate certain forecasts or staff lacking sufficient time to evaluate a utility’s forecasts?</p> <p>b. Has your commission shied away from an FTY because of problems?</p> <p>c. Does the commission feel confident in evaluating forecasts to determine new rates?</p> <p>d. Was there a learning curve that your commission had to go through in gaining comfort with an FTY? What problems would you expect a commission to confront when first using an FTY?</p> <p>e. What is your commission’s overall experience with FTYs?</p>
Minnesota	<p>(a) No more so than any other forecasts; the rules require baseline information grounded in actual, unadjusted numbers for the most recent fiscal year in addition to the projected fiscal year, (b) No, (c) Yes, however PUC staff’s role is advisory; as such, the PUC and its staff are primarily responsible for evaluating the utilities’ and the interveners’ evaluations rather than actually conducting its own evaluation, (d) Don’t know; FTYs (i.e. projected fiscal years) have been allowed and used by most utilities for over 30 years, (e) Probably very similar to what would be expected in states that allow normalized, historical test years adjusted for “known and measurable” changes; one, ongoing challenge has been how to deal with proposed updates to projected information.</p>
Mississippi	<p>Mixed; (a) We use two types of projections in FTYs: “historical figures adjusted for known and measurable changes and pure projections. Known and measurable changes can be objectively verified and we have few issues with these. Pure projections are difficult to verify due to lack of models, lack of time and, in some cases, lack of expertise; there is, however, a “look-back” on each projected filing following completion of the test year. If the utility over or under earns, there is provision for a refund or surcharge, (b) Our Commission has expressed concern about pure projections and will likely open an investigation at an undetermined future date (c) No, (d) Our Commission has expressed concern about pure projections and will likely open an investigation at an undetermined future date, (e) Mixed, as described above.</p>

State	<p>2. What has been your commission's experience so far with FTYs?</p> <ul style="list-style-type: none"> a. What problems have arisen? For example, has your commission found it difficult to evaluate certain forecasts or staff lacking sufficient time to evaluate a utility's forecasts? b. Has your commission shied away from an FTY because of problems? c. Does the commission feel confident in evaluating forecasts to determine new rates? d. Was there a learning curve that your commission had to go through in gaining comfort with an FTY? What problems would you expect a commission to confront when first using an FTY? e. What is your commission's overall experience with FTYs?
New York	<p>The New York Commission has been employing the use of FTYs for over 35 years. The continued use of FTYs demonstrates its preference over the alternatives experimented with during the mid-1970s; (a) The experience, expertise, and academic diversity of the New York Commission Staff makes it well suited to evaluate sales, capital, O&M, and financial forecasts; the 11-month regulatory process that is employed in setting rates affords Staff and other parties sufficient time to evaluate a utility's forecasts, as well as other issues presented in a major rate proceeding, (b) No, (c) Because it has been using FTYs over the last 35 years, the Commission has gained a level of familiarity and experience with evaluating forecasts that causes it to continue using FTYs over other alternative test periods, (d) As with any transition, there was a learning curve. The New York Commission went from using a HTY, to a projected test year consisting of the most recent 6-months' actual experience and 6-month's forecasted data, to a fully forecasted rate year. Expected problems with first using a FTY may include timing issues and differences in forecasting approaches. Uniform ratemaking practices should be established and various approaches should be tailored to meet the Commission's needs. For example, major storm damage costs are volatile and unpredictable so over time the Commission has generally adopted a reserve ratemaking approach to address recovery of these specific costs, (e) Again, the New York Commission has over 35 years of experience using FTYs. While always challenging, the rate setting process employed in New York results in reasonable outcomes based on sound ratemaking principles.</p>
Oregon	<p>No significant problems have arisen from the use of future test periods.</p>

State	<p>2. What has been your commission's experience so far with FTYs?</p> <ul style="list-style-type: none"> a. What problems have arisen? For example, has your commission found it difficult to evaluate certain forecasts or staff lacking sufficient time to evaluate a utility's forecasts? b. Has your commission shied away from an FTY because of problems? c. Does the commission feel confident in evaluating forecasts to determine new rates? d. Was there a learning curve that your commission had to go through in gaining comfort with an FTY? What problems would you expect a commission to confront when first using an FTY? e. What is your commission's overall experience with FTYs?
Tennessee	<p>(a) Forecasting is not an exact science, but we have several qualified employees with a great amount of experience in this filed. Forecasting is predicated to a large degree on utility provided data, so if the data is incorrect the conclusions drawn from that data may also be flawed. For example, the utility files its capital expenditures budget and it gets accepted, but the utility does not make all forecasted plant additions. This problem has arisen and now investment trackers may be used in future rate cases; we sometimes require quarterly reports of capital projects. Another example is the forecasted date that a large industrial customer will begin service. Fluctuations in this date can cause revenue forecasts to be flawed; (b) No, (c) Yes, the practice is common in most every rate case. An exception might be a very small utility, (d) the main problem that occurs is not gathering enough evidence from the utility to calculate growth/decline rates or not being familiar with how to properly conduct or analyze the utilities' regression analysis, (e) Positive.</p>
Utah	<p>(a) No. This question may be better asked of the Utah Division of Public Utilities, which is the state investigative agency for public utility rate filings, (b) No; but the Commission has identified concerns with FTYs. (See, for example, Public Service Commission of Utah, <i>In the Matter of the Application of PacifiCorp for approval of its Proposed Electric Service Schedules and Electric Service Regulations, Order Approving Test Period Stipulation</i>, Docket No. 04-035-42 3, October 20, 2004), (c) Yes, (d) Yes, especially the problem of determining the most appropriate test year under the circumstances, (e) The Utah Commission has not undertaken an evaluation of this question.</p>

State	<p>2. What has been your commission's experience so far with FTYs?</p> <ul style="list-style-type: none"> a. What problems have arisen? For example, has your commission found it difficult to evaluate certain forecasts or staff lacking sufficient time to evaluate a utility's forecasts? b. Has your commission shied away from an FTY because of problems? c. Does the commission feel confident in evaluating forecasts to determine new rates? d. Was there a learning curve that your commission had to go through in gaining comfort with an FTY? What problems would you expect a commission to confront when first using an FTY? e. What is your commission's overall experience with FTYs?
Wisconsin	<p>(a) The greatest difficulty is the inherent differences of opinion between staff-utility-interveners as to forecasted revenues and expenses, (b) Not applicable, (c) The Commission has been using the method for many years so there is a demonstrated comfort with it, (d) Not applicable, (e) It has been a positive one.</p>
Wyoming	<p>(a) Verifying forecasts can be difficult and takes much more time than the traditional historical test year, (b) No, (c) Yes, (d) Yes; the biggest problems were verifying data, matching of rate base items and rates, and making certain that data used is accessible, (e) Overall, Wyoming's experience has been positive; the utilities that have used FTYs provide data either through testimony or discovery; forecasting accuracy and accountability is a concern, along with accessibility of the data filed with an FTY, the reasons for the use of the forecast, the length of the forecast and why it is reasonable.</p>

State	3. Does your staff make independent forecasts, or does it make adjustments to the utility's forecasts?
Alabama	The starting point is the gas utility's budget, compared to the previous year's actual and budget. The staff then suggests changes. We do not have authority to make unilateral changes. We have a limited complaint process whereby we can formally challenge a provision if we see the need. It has recently been strengthened, in the staff's favor, for one gas utility and the other gas utility is pending.
Connecticut	We use a combination of both.
Florida	See <i>Response 2(a)</i> . Staff evaluates the appropriateness of the forecasts and recommends adjustments when warranted.
Illinois	Parties to the case make adjustments to the utility's forecasts.
Kentucky	Staff makes adjustments.
Michigan	Both, but most times staff makes adjustments to the utility's forecast.
Minnesota	PUC staff does not make independent forecasts. The Commission either adopts the utility's forecast, the Department of Commerce, Division of Energy Resource's forecast, another intervener's forecast, or adopts an adjusted version of one of the parties' forecasts.
Mississippi	We do not make independent forecasts; we conduct reasonableness tests, however, on the utility's forecasts.
New York	Both, depending on the circumstances and available data, Staff may make independent forecasts, which it often does with electric and gas sales and has done with property taxes. More commonly, Staff may make adjustments to the utility's forecasts, as it does with payroll expense, O&M, and capital expenditures.
Oregon	Staff makes adjustments to the company forecasts by either constructing new forecasts or adjusting the company's forecasts. The choice is issue/facts dependent.

State	3. Does your staff make independent forecasts, or does it make adjustments to the utility's forecasts?
Tennessee	In Tennessee, Staff acts as advisors and provides the Directors (Commissioners) with its own forecast based upon the record. That is why data gathering is so important. The utilities' forecasts are fairly supportable in most areas, but generally (in Staff's opinion) there are areas that may be not be reasonable or do not represent the best outcome. In this instance, Staff proposes adjustments to the forecasts.
Utah	This question might be better asked of the Utah Division of Public Utilities.
Wisconsin	Independent forecasts are often used for sales. The staff normally makes adjustments to the utility's forecasts in the areas of O&M expenses, net investment rate base, capital structure, working capital, and taxes.
Wyoming	Intervenors make adjustments to the utility forecasts.

State	4. Does your commission require a utility to demonstrate the reasonableness of its forecasts, or do interveners and staff have the burden to demonstrate the unreasonableness of the utility's forecasts?
Alabama	See <i>Response 3</i> above. Additionally, the burden is generally on the staff or the Attorney General (as consumer advocate) to demonstrate that the budget is inappropriate. See also <i>Response 8</i> below.
Connecticut	Utilities are required to demonstrate the reasonableness of their forecasts.
Florida	See <i>Response 2(a)</i> . The utility has the burden of proof.
Illinois	83 Ill. Adm. Code 285 includes various requirements for the utility to demonstrate the reasonableness of its forecasts. These include the provision of the following information when the utility files a case: (1) Comparison of Prior Forecasts to Actual Data – Prior Three Years, (2) Statement from the Independent Certified Public Accountants, (3) Statement on Assumptions Used in the Forecast (that the forecast contains the same assumptions and methodologies used in forecasts prepared for management or other entities, such as the Securities Exchange Commission), (4) Inflation (identification of the rate of inflation used in forecast to various accounts), (5) Budgeted Non-Payroll Expense to Actual (for the last three years).
Kentucky	Utilities must demonstrate the reasonableness of their forecasts.
Michigan	A utility must support its request which includes its forecasts.
Minnesota	The utility carries the burden of proof in matters coming before the Commission. "The burden of proof to show that the rate change is just and reasonable shall be upon the public utility seeking the change." Minn. Stat. § 216B.16, subd. 4.
Mississippi	If we question a forecast, the burden of proof lies with the utilities.
New York	The burden of proof is on the utility, as provided in <i>Part 61.1 of NYCRR16</i> .
Oregon	The utility has the burden of proof.

State	4. Does your commission require a utility to demonstrate the reasonableness of its forecasts, or do interveners and staff have the burden to demonstrate the unreasonableness of the utility's forecasts?
Tennessee	The burden rests with the utility to prove its case. Intervenors take different approaches. Some intervenors simply try to discredit the utilities' proposals while others (often the Consumer Advocate) file their own testimony with supporting information. Staff, as advisors, prepares its own recommendation based upon the evidence in the record, including the forecasts.
Utah	The Commission requires a utility to demonstrate the reasonableness of its forecasts.
Wisconsin	The utility must support its application. Intervenors and staff provide additional information to build a complete record for the Commission to make its determination of reasonableness.
Wyoming	The utilities have the burden to demonstrate the reasonableness of their forecasts.

State	<p>5. Does your commission require a baseline from which to evaluate a utility's forecasts?</p> <p>a. If yes, how does it define the baseline?</p> <p>b. Does the utility, for example, have to file an HTY as a baseline?</p>
Alabama	No
Connecticut	The starting point is generally the test year.
Florida	(a) Utilities proposing a projected test year are required to file (1) an HTY, (2) one- year out projected test year and (3) second-year out projected test year, (b) See <i>Response 5(a)</i> .
Illinois	(a) A baseline is not defined; but the information that is identified in <i>Response 4</i> is used to evaluate forecasts, (b) The utility must provide historical information.
Kentucky	Yes; (a) It is a 12-month "base period" consisting of both historical and forecasted information; at the time an application is filed, the base period must include a minimum of 6 months of historical information and a maximum of 6 months of forecasted information; the utility must update the base period during the course of the case so that it is fully historical by the time the Commission must make a decision on the utility's rate request, (b) In addition to the base period discussed above, the utility must file information on its 5 most recent calendar years' financial results.
Michigan	No; a utility must file an HTY filing but it does not have to be the baseline.
Minnesota	(a), (b) The rules require baseline information defined as unadjusted numbers for the most recent fiscal year in addition to unadjusted numbers for the projected fiscal year.
Mississippi	(a) Yes, the baseline is historical figures, (b) Yes.
New York	Yes, the utility is required to file an HTY as the baseline (pursuant to the <i>Policy Statement</i>). The HTY consists of operating results, with normalizing adjustments, for a twelve-month period expiring at the end of a calendar quarter no earlier in time than 150 days before the date of filing. Utilities also present information on actual results that bridge the gap between the historical and forecast period (the linking period).

State	<p>5. Does your commission require a baseline from which to evaluate a utility's forecasts?</p> <p>a. If yes, how does it define the baseline?</p> <p>b. Does the utility, for example, have to file an HTY as a baseline?</p>
Oregon	For some issues, the utility may use a historical period as a baseline and then make known and measurable adjustments to derive the test year projections. In other issues, such as loads, it will construct a forecast.
Tennessee	(a) The Authority looks at a historical test period (chosen by the agency) and makes normalizing adjustments to get a baseline, (b) Yes, utilities have to file an HTY.
Utah	Yes; (a) It is defined in <i>Utah Administrative Code R746-700-20(A)</i> ; briefly, the utility must provide the unadjusted and adjusted actual results of operations for the historical 12-month period contained in the last reported results of operations report semi-annually filed with the Commission, (b) See <i>Response 5 (a)</i> above.
Wisconsin	Utilities must provide historical information for sales, O&M expenses, rate base (e.g., expenditures, timing of additions, etc.), and working capital balances.
Wyoming	Yes, (a) The historical test year have been used as a baseline, (b) Yes, in many cases the Commission has required utilities to do so.

State	<p>6. What methodologies or indices do utilities usually use to forecast operation and maintenance (O&M) expenses?</p> <p>a. Is there a specific inflation index (e.g., Global Insights, GDP Implicit Price Index) that utilities used?</p> <p>b. Do commission staff see any problems in a utility's using budget data to forecast O&M expenses?</p>
Alabama	<p>The budget process is a bottom up process that is reviewed at each level of management and then usually sent back down for rework. The first time is more of a wish list, and the second or third iteration gets to be more realistic. If staff requests, it can meet with department heads or lower to discuss the decisions and assumptions involved in developing the budget;</p> <p>(a) No, (b) There are always problems in any methodology, but using the budget is a workable solution, particularly with the safeguards (complaint proceeding) recently instituted.</p>
Connecticut	<p>(a) The most recent rate case uses the Gross Domestic Product Price Index, (b) No, budget data is essentially the pro forma adjustment from test year to rate year; previous years budgets and actual results have been used as a reasonableness of the budget process; assumptions going forward are tested, accounts are tested and outliers are analyzed.</p>
Florida	<p>(a) No, (b) See <i>Response 2(a)</i>; this would be determined on a case-by-case basis, based upon the record.</p>
Illinois	<p>(a) There is no specific inflation index that the utilities use, (b) No.</p>
Kentucky	<p>(a) No, (b) There have been some minor problems related to some utilities' internal budget processes.</p>
Michigan	<p>(a) Varies by utility; Blue Chip is common, (b) Many factors could influence this response; budget data can be useful but can also be problematic.</p>
Minnesota	<p>(a) No, (b) Budget data is commonly used by utilities to forecast future test-year O&M expenses.</p>
Mississippi	<p>(a) No, (b) Yes, in terms of doing an independent verification.</p>

State	<p>6. What methodologies or indices do utilities usually use to forecast operation and maintenance (O&M) expenses?</p> <p>a. Is there a specific inflation index (e.g., Global Insights, GDP Implicit Price Index) that utilities used?</p> <p>b. Do commission staff see any problems in a utility's using budget data to forecast O&M expenses?</p>
New York	<p>(a) The Commission has relied on the gross domestic product implicit price deflator (GDP-IPD) as an inflation index per the attached Notice issued April 14, 1992 in Case 92-M-0184 (<i>Proposed Change in the Index Used to Measure Inflation for Use in Rate Making Proceedings</i>); this index is typically used to inflate historic O&M expenses into future rate year dollars, (b) Yes, as outlined in the <i>Policy Statement</i>, forecast material should be developed from the historical base. For O&M expenses, changes in prices and in activity levels should be fully and separately detailed by functional groups and elements of cost. All assumptions of changes in price inputs because of inflation or other factors or changes in activity levels due to modified work practices or other reasons should be separately developed. The format used in presenting utility budgets of future operations produced for a utility's internal purposes will not meet these requirements without substantial modification.</p>
Oregon	<p>Well known price index forecasts such as Global Insights are used. Using budget data is not typically used as there is often a difference between budget and actual.</p>
Tennessee	<p>Utilities rely on growth rates, weather studies, regression analysis, inflation indices, and so forth; (a) Different utilities use different inflation factors, (b) As a starting point, no; staff examines any budgets, reviews historical invoices and makes known and reasonable changes; forecasts are then based upon all the information we gather.</p>
Utah	<p>(a) Sometimes, (b) Yes, rates must be tied to cost of service.</p>
Wisconsin	<p>(a) The Commission uses Global Insight and Blue Chip Economic Forecasts and averages the two to get our annual inflation forecasts. NYMEX is used for projecting gas prices when estimating electric fuel expense, (b) A utility can forecast its O&M expenses however it wants to; staff then reviews the forecast for reasonableness. Budget data is probably the most useful data for a utility to base its FTY costs.</p>
Wyoming	<p>(a) Global Insights are most frequently used, (b) Yes.</p>

State	7. Does your commission view an FTY relative to an HTY as reducing a utility's risk, thus justifying a lower authorized rate of return?
Alabama	Not necessarily, as an HTY implies a traditional rate case which in turn implies a chance to over-earn. There is no such opportunity with a Rate RSE.
Connecticut	Increases to such areas as plant, operations and maintenance in subsequent years of a rate plan should provide for a greater predictability in operational performance and should be reflected in a utility company's risk profile.
Florida	No
Illinois	The Commission has not made any exogenous adjustments to the cost of common equity estimates for utility sample companies when setting the authorized rate of return for FTYs.
Kentucky	The Commission has not authorized a lower rate of return due to utility using a FTY.
Michigan	The Commission has not commented on this relationship in isolation.
Minnesota	The Minnesota Commission normally does not make adjustments to the ROR or ROE adjustments for specific risk factors. Decisions about utility specific risk factors are embedded in the selection of a comparable group of utilities on which the ROR and ROE analysis is based.
Mississippi	The issue has been informally raised but not acted upon or investigated.
New York	It is widely held (by the financial community, industry analysts, and credit rating agencies) that use of a FTY improves earnings, improves credit ratings, and reduces risks. It follows logically that these factors all support a lower allowed ROE.
Oregon	Oregon has a long history of using future test periods. There is no adjustment to the cost of capital.
Tennessee	To my knowledge no adjustment has ever been made to ROE as a result of choosing a future test year over a HTY. I do not recall the issue coming up.
Utah	In the two litigated cases in the past decade on rate of return, the Commission has not tied the rate of return decision to use of an FTY.

State	7. Does your commission view an FTY relative to an HTY as reducing a utility's risk, thus justifying a lower authorized rate of return?
Wisconsin	Much would depend on the preparation of an HTY. Consideration of known and significant costs arising during the period when rates would be in effect is important. Not recognizing those changes would have a negative effect on earnings. What the trade-off is between certainties within an HTY vs. forecasts of an FTY would dictate which has more risk.
Wyoming	There has been no specific adjustment to a rate of return recognizing a decrease in utility risk.

State	<p>8. How does your commission determine that the cost forecasts reflect prudent utility management?</p> <p>a. What actions has the commission taken in assuring that customers are not paying for unreasonable or imprudent costs?</p> <p>b. Does your commission believe that utilities have an incentive to misreport their costs and sales to justify a higher rate?</p>
Alabama	The staff conducts an annual rate review plus smaller quarterly reviews that tend to identify any weaknesses in a budget. However, there has to be a certain amount of trust and rapport involved; (a) RSE provides for quarterly rate adjustments; these quarterly points of test can only yield no change or downward adjustments, (b) We have no evidence nor do we believe that gas utilities misreport costs or sales.
Connecticut	(a) Discovery through audit, interrogatories, cross-examination as well as orders to utilities for follow up reporting post the final Decision, (b) There are always differences of opinions regarding forecasts; all parties have different motivations as to how conservative or accurate any particular forecast may be.
Florida	(a) See <i>Response 2(a)</i> above, (b) No.
Illinois	(a) If the Commission finds that the cost forecast includes unreasonable or imprudent costs, the costs are excluded from the requested revenue requirement, (b) Unable to answer.
Kentucky	(a) See <i>Responses 3-5</i> , (b) Not just a result of using FTY.
Michigan	(a) Cannot speak for the Commission, but the objective (and process) of rate cases is to aid in determining what is reasonable, (b) Can't speak for the Commission.
Minnesota	(a) Rate cases are referred to the state's Office of Administrative Hearings for a contested case proceeding in which the reasonableness and prudence of the company's costs and proposed rates are evaluated and tested before being authorized by the Commission, (b) No more so than would normally be expected. The Commission believes its existing processes protect ratepayers.
Mississippi	(a) We require a look-back, (b) Yes.

State	<p>8. How does your commission determine that the cost forecasts reflect prudent utility management?</p> <p>a. What actions has the commission taken in assuring that customers are not paying for unreasonable or imprudent costs?</p> <p>b. Does your commission believe that utilities have an incentive to misreport their costs and sales to justify a higher rate?</p>
New York	<p>(a) Staff performs a full audit of the HTY and a thorough evaluation of the linking period and FTYs; moreover, staff analyzes the utility's cost control, procurement, and contracting processes and procedures; staff reviews capital projects and programs, monitors construction of major projects, and performs routine site visits; the utilities and Staff support their positions with testimony and exhibits, (b) a one-year litigated rate plan limits the incentive to inflate cost forecasts, and the impact is short lived because actual rate-year costs become the basis for the next test year; multi-year rate plan agreements limit the impact on erroneous cost forecasts with the use of earnings sharing mechanisms (ESM).</p>
Oregon	<p>Utilities have the burden of proof that the forecasts are reasonable. Oregon also operates under a "used and useful" statute that does not allow major investments to be placed in rates until they are "used and useful". Typically an audit is completed prior to costs being placed in rates.</p>
Tennessee	<p>Historical results provide great guidance and large variances indicate red flags. Still, management decisions are difficult and expensive to audit. One area that is of growing concern is the use of corporate service companies. Although one can audit the allocation methodology (between states), without auditing the underlying management decisions of the service company (staff levels, salaries....) that drive the costs, it is difficult to reach conclusions; (a) The Authority has ordered a few management audits resulting from rate cases; on the commodity side there are incentive plans for gas utilities to obtain the best commodity and transport rates or its consumers, (b) The reported costs are generally harder to misreport, but it happens; we hope it can be found; forecasts, however, can sometimes be extreme.</p>
Utah	<p>(a) The Commission relies on the record evidence in each general rate case or other rate setting proceeding and (b) The Commission has not undertaken a formal evaluation of this issue.</p>

State	<p>8. How does your commission determine that the cost forecasts reflect prudent utility management?</p> <p>a. What actions has the commission taken in assuring that customers are not paying for unreasonable or imprudent costs?</p> <p>b. Does your commission believe that utilities have an incentive to misreport their costs and sales to justify a higher rate?</p>
Wisconsin	<p>(a) Staff audit of the utility's application is one important step in that process. In addition, for large construction projects, the Commission requires a construction authorization or a Certificate of Public Convenience and Necessity whereby the utility needs authorization from the Commission before it can begin construction. The reasonableness of the estimated costs and prudence of the project are addressed in these proceedings, (b) The utilities are subject to external financial audits of their financial statements. There is the consideration that a utility would forecast its costs and revenues conservatively in order to increase the likelihood of meeting or exceeding its authorized ROE. We have seen differing approaches in this regard among the state's utilities. Some appear more prone than others to building in a cushion in their forecasts.</p>
Wyoming	<p>(a) Monitoring the earnings levels between rate cases (forecast versus actual) on an account-by-account basis, (b) Yes.</p>

State	<p>9. What adaptations did your commission make when first allowing utilities to file an FTY?</p> <p>a. Did the commission have to hire new staff and staff with different expertise?</p> <p>b. Did the commission have to devote less time to other rate-case matters?</p>
Alabama	(a) No, (b) No
Connecticut	(a) No, (b) No.
Florida	(a) Unknown, but over time the overall composition of staff with certain areas of expertise or specialization may have evolved, (b) No.
Illinois	(a) The Commission required new staff to review the costs included in the requested revenue requirements to be designated as Certified Public Accountants, (b) No.
Kentucky	No specific adaptations were made; (a) No, (b) No.
Michigan	(a) Not for the FTY law, (b) No.
Minnesota	(a) Don't know - current staff did not work for the Commission when FTYs were first allowed, (b) Don't know - current staff did not work for the Commission when FTYs were first allowed.
Mississippi	(a) and (b) No.
New York	Generally, the Commission made no significant adaptations to (1) staffing levels or (2) reviewing other rate case matters when moving to FTYs. Staff transitioned from the use of historical, partial historical and partial forecast, to fully forecasted test years over several years; (a) No, (b) No.
Oregon	No adjustments were made as far as we can recall.
Tennessee	(a) I think the existing staff was used, but I am not sure; I know presently that we train new employees, (b) Not sure, and, like most Commissions, we try to evaluate and review all aspects of a rate case, which can be overwhelming; our first approach is to focus on large categories, e.g., salaries and wages, management services, capital budgets taxes.... ; I would not go as far to say that forecasting takes away time from our evaluation.

State	<p>9. What adaptations did your commission make when first allowing utilities to file an FTY?</p> <p>a. Did the commission have to hire new staff and staff with different expertise?</p> <p>b. Did the commission have to devote less time to other rate-case matters?</p>
Utah	The Commission established filing requirements through a rule for applications seeking use of an FTY, and required the electric utility to file variance reports in order to review forecasts after the fact; (a) No and (b) Yes.
Wisconsin	As stated above, the Commission has used a future test year approach for at least 35 years and there is no knowledge available regarding the transition to a future test year.
Wyoming	(a) No, (b) No.

State	<p>10. Does your commission retrospectively compare the utility's forecasted costs allowed in rates with actual costs?</p> <p>a. If it does, what methodology does it use to measure the difference?</p> <p>b. Is there any evidence that a utility has consistently over-forecasted costs?</p> <p>c. If so, has your commission made adjustments to subsequent cost forecasts reflecting past forecasting errors?</p>
Alabama	Yes; (a) We use trend and comparative analysis to compare year to year; the real answer here, however, is the quarterly true-ups, (b) Consistent givebacks under Rate RSE could be interpreted that way, but the givebacks tend to negate the usefulness of such an overstatement, (c) Yes.
Connecticut	(a) In subsequent rate cases or as the result of a utility that is exceeding its allowed ROE by one percentage point for six consecutive months (<i>Conn. Gen. Statute §16-19g</i>), (b) Yes, the Authority rarely accepts a company's forecasts without adjustment, (c) Past experience with any particular company is instructive when determining the appropriateness of any forecast.
Florida	No; the Commission, however, requires electric and gas utilities to submit an O&M benchmark analysis with rate case filings. The purpose of the O&M analysis is to test the reasonableness of the forecasted O&M expenses. If the forecasted expenses are higher than calculated under the benchmark methodology, the Commission requires the utility to provide justification for the variance.
Illinois	(a) The comparison of budgeted costs to actual costs is done in subsequent rate cases to determine the accuracy of a utility's forecasting system, (b) If there is evidence that a utility has consistently over-forecasted costs, an adjustment to the forecast will be proposed in a subsequent rate case, (c) Yes.
Kentucky	No; (b) No
Michigan	The Commission does not do so in any procedural setting.
Minnesota	Not on a routine basis at this time, (a), (b) and (c) Not applicable.

State	<p>10. Does your commission retrospectively compare the utility's forecasted costs allowed in rates with actual costs?</p> <p>a. If it does, what methodology does it use to measure the difference?</p> <p>b. Is there any evidence that a utility has consistently over-forecasted costs?</p> <p>c. If so, has your commission made adjustments to subsequent cost forecasts reflecting past forecasting errors?</p>
Mississippi	Yes; (a) A recalculation of the revenue requirement using historical figures, (b) No, (c) Not applicable.
New York	<p>Yes. Staff performs a reconciliation of the test year with the previous rate year and reconciles the rate year with the linking period and test year to identify drivers in the rate increase requested. In addition, most major utilities have earnings sharing mechanisms (ESM) as part of multi-year rate plans which provide for a partial sharing of the effects of variances between rate case forecasts and actual results. The ESMs are reviewed and analyzed by Staff to determine major drivers of differences. In those instances where a major utility does not have a multi-year rate plan, Staff will routinely perform an after the fact reconciliation of the rate year forecasts with actual results; (a) Staff uses the reconciliation method to measure the difference. The reconciliation is a line-by-line comparison of the revenue-requirement income statement to identify major drivers of the difference in allowed vs. actual return on equity, (b) There is no evidence, which Staff is aware, that a utility has consistently over-forecasted costs, (c) In its evaluation of forecasts, Staff routinely looks for derivations and adjusts subsequent forecasts based on previous results.</p>
Oregon	Yes, staff reviews the historical accuracy of forecasts.
Tennessee	<p>The Authority does not formally do this, but Staff, on its own, reviews its forecasts with actual results, (a) We do not use a formal methodology, (b) Yes, in many instances; in one recent case a utility forecasted a certain number of employees that the Authority accepted in forecasting salaries and wages expense (and benefits); The utility never came close to hiring the number of employees it forecasted, (c) Past utility actions and performance are reviewed and taken into account.</p>

State	<p>10. Does your commission retrospectively compare the utility's forecasted costs allowed in rates with actual costs?</p> <p>a. If it does, what methodology does it use to measure the difference?</p> <p>b. Is there any evidence that a utility has consistently over-forecasted costs?</p> <p>c. If so, has your commission made adjustments to subsequent cost forecasts reflecting past forecasting errors?</p>
Utah	<p>Yes, in balancing account rate proceedings; (a) The method varies depending on the type of balancing account, (b) The Commission has not undertaken a formal evaluation of this issue, (c) Yes, as the energy balancing account and renewable energy certificate revenue credit balancing account both measure the difference between forecast and actual costs or revenue.</p>
Wisconsin	<p>(a) We often employ budget-to-actual analyses to see if a utility is consistently under- or over-forecasting specific areas. We also get monthly ROE reports that show earnings for the most recent 12 months. Material variances can then be investigated as to origin, (b) As noted in <i>Response 8(b)</i>, sometimes there is, (c) Yes, usually in the form of budget to actual adjustments.</p>
Wyoming	<p>Yes, staff conducts these analyses; (a) Actual versus forecast, trended over time, (b) Staff analyzes the forecasts on an account by account basis; these analyses have shown so far no pattern of over-forecasting for those utilities that have used forecasted test years; for most utilities, however, an FTY has not been used for a long period of time; many have only used it once, so far.</p>

State	<p>11. Does your commission retrospectively compare the utility's forecasted sales allowed in rates with actual sales?</p> <p>a. If it does, what methodology does it use to measure the difference?</p> <p>b. Is there any evidence that a utility has consistently under-forecasted sales?</p> <p>c. If so, has your commission made adjustments to subsequent sales forecasts reflecting past forecasting errors?</p>
Alabama	Not as an isolated event, but sales are always a factor in what we are examining; (a) Not applicable, (b) No, (c) Not applicable.
Connecticut	(a) Infrequently in a rate increase application, a past forecast will be reviewed for accuracy to judge the reliability of projected forecasts, (b) No, (c) Not applicable.
Florida	Yes, but not to adjust rates for forecast inaccuracies; each year the utilities submit ten-year site plans (a type of integrated resource plan); as part of our evaluation, staff calculates historical forecast accuracies for the utilities, (a) A simple comparison of forecasted values for kWh, kW, and customers to actual values, (b) No; in fact in recent years, the trend across all Florida utilities has been to over-forecast, (c) No.
Illinois	The Commission does not typically compare forecasted sales allowed in rates with actual sales.
Kentucky	No; (b) No
Michigan	The Commission does not do so in any procedural setting.
Minnesota	Intervenors in utility rate cases often make this comparison in their pleadings; (a) Utilities in Minnesota are required to file Jurisdictional Annual Reports each year, pursuant to Minn. Rules, 7825.4700 - 7825.5400; intervenors often compare the data reported in these reports to the data filed in a rate case, (b) This is a case-by-case determination based on the merits of the forecast presented in the docket, (c) In one recent rate case, the Commission found that the forecasted sales data was unreliable and used the Company's actual sales data for the test year.
Mississippi	Yes; (a) Look-back and formulary rate plans, (b) No, (c) Not applicable.

State	<p>11. Does your commission retrospectively compare the utility's forecasted sales allowed in rates with actual sales?</p> <p>a. If it does, what methodology does it use to measure the difference?</p> <p>b. Is there any evidence that a utility has consistently under-forecasted sales?</p> <p>c. If so, has your commission made adjustments to subsequent sales forecasts reflecting past forecasting errors?</p>
New York	<p>Yes, as part of the calculation of Revenue Decoupling Mechanism (RDM) billing adjustments; (a) Staff uses the reconciliation method to measure the difference, (b) There is no evidence, which Staff is aware, that a utility has consistently under-forecasted sales; regardless, under the RDM approaches adopted for the major utilities, sales forecast issues are largely moot, (c) In its evaluation of forecasts, Staff routinely looks for deviations between past actual and past forecasts and adjusts forecasts based on previous results.</p>
Oregon	<p>Yes, staff reviews the accuracy of past forecasts.</p>
Tennessee	<p>The Authority does not formally do this, but Staff, on its own, reviews its forecasts with actual results. We receive information from utilities via required monthly reports; (a) There is no formal methodology, (b) Generally yes, (c) The revenue side is easier to forecast because you have so much historical data (customers, usage...); this makes it more difficult for a utility to state that revenues will decline by a large amount when revenues have been increasing for the past ten years; expenses, however, are more difficult to forecast due to more unknowns such as inflation.</p>
Utah	<p>Yes, this comparison is provided in the electric utility's energy balancing account proceeding; (a) The Commission relies on a simple comparison of actual sales to test year sales, (b) The Commission has not undertaken a formal evaluation of this issue, (c) Only with respect to the balancing account, as noted above.</p>
Wisconsin	<p>(a) Yes, it does. It compares actual weather-normalized sales to the utility's filed forecast over several years, (b) Sometimes there is, (c) although staff normally prepares its own sales forecast, it is useful to know how the utility's filed forecasts compare to actual results.</p>
Wyoming	<p>Yes; (a) Comparison analysis (forecast versus actual) over several years with comparisons of projections and assumptions to actual results, (b) No.</p>

State	<p>12. If your commission requires a project to be “used and useful” before a utility can recover any of its costs from its customers, how does this mandate reconcile with an FTY?</p> <p>a. Does your commission, for example, exclude the project cost as part of the revenue requirement in a general rate case?</p> <p>b. Does your commission, as an alternative, add the project cost to rates only after (1) the project comes on line and (2) the commission has determined the cost to be prudent, in a separate proceeding?</p>
Alabama	Projects that are not considered “used and useful” can be excluded from the budget; (a) Not applicable, (b) Not applicable.
Connecticut	(a) Projects scheduled for completion by the mid-point of the rate year would be part of the revenue requirements; for a multi-year rate plan, projects scheduled for completion would be included in revenue requirements for the year of the completion, (b) In the past, Connecticut has allowed for limited reopened proceedings to include projects that were not incorporated in single-year rate Decisions.
Florida	Electric utilities are required to file for a need determination for proposed power plants and transmission lines. If approved, construction of the facilities is deemed appropriate. The revenue requirement impact is based on the in-service date of the facilities. The Commission has approved the use of step increases to time the rate increase to the in-service date, (b) These decisions would usually be made independent of the decision to use an FTY. If the project was scheduled to be in service during the FTY, in whole or in part, it likely would be factored into test year revenue requirements. Such decisions would be highly case-specific, however.
Illinois	Only projects that would be “used and useful” when put into service in the test year are included in rate base; (a) No, (b) No.
Kentucky	The Commission does not require a project to be “used and useful”.
Michigan	(a) and (b) The Commission uses its discretion based on record evidence.

State	<p>12. If your commission requires a project to be “used and useful” before a utility can recover any of its costs from its customers, how does this mandate reconcile with an FTY?</p> <p>a. Does your commission, for example, exclude the project cost as part of the revenue requirement in a general rate case?</p> <p>b. Does your commission, as an alternative, add the project cost to rates only after (1) the project comes on line and (2) the commission has determined the cost to be prudent, in a separate proceeding?</p>
Minnesota	<p>(a) No; the Commission has allowed projects forecasted to be completed and in-service, for example, by the end of, the forecasted test year to be included in the test-year rate base; also, Minn. Stat. 216B.16, subd. 6a, Construction work in progress, authorizes the inclusion of construction work in progress (CWIP) with an offset for an allowance for funds used during construction (AFUDC) in determining a utilities’ revenue requirement, (b) Not applicable.</p>
Mississippi	<p>The project should become used and useful during the rate period; (a) It would be excluded only if it would not be used and useful during the rate period, (b) No, at least, not in every case; for example, there is a proposal currently before the Commission to implement rates for Mississippi Power Company’s Kemper Plant to begin recovery before the commercial operation date of the plant and before a final determination has been made; the Commission agreed in principle to such an approach in a Settlement Agreement, but the implementation is currently under review and could be rejected by the Commission.</p>

State	<p>12. If your commission requires a project to be “used and useful” before a utility can recover any of its costs from its customers, how does this mandate reconcile with an FTY?</p> <p>a. Does your commission, for example, exclude the project cost as part of the revenue requirement in a general rate case?</p> <p>b. Does your commission, as an alternative, add the project cost to rates only after (1) the project comes on line and (2) the commission has determined the cost to be prudent, in a separate proceeding?</p>
New York	<p>Capital projects must be in-service before the utility can place them in rate base. In general, this in-service requirement operates in the same way as a “used and useful” standard. In New York, projects which meet this “in-service” test are eligible to recover the associated return on and return of capital in rates. Because New York rate cases use FTYs, projections of capital project costs and in-service dates must be made by the utilities and evaluated by the Commission; (a) Not routinely, as noted above, typically projections of major (and minor) capital project costs and in-service dates are used to shape the FTY rate base; there are exceptions, however. Concerns about a major project based, for example, on its cost, need, justification, or schedule may prompt the Commission to undertake a prudence review. If a prudence review is done, some or all of the project costs may be excluded from rate base and, therefore, from the utility’s revenue requirement until the determination on prudence is made, (b) As noted in <i>Response 12 (a)</i>, if a project were carved out for a separate prudence review, some or all of the project’s costs may be excluded from rate base and revenue requirements while the prudence review is being completed.</p>
Oregon	<p>Yes, the “used and useful” statute is <i>ORS 757.355</i>.</p>
Tennessee	<p>Staff reviews all projects and seeks detailed explanations for their necessity. Staff also reviews cost projections, amounts capitalized and so forth; (a) If a project is found not to meet the “used and useful” test the Authority could exclude the project (of course circumstances as to why it became unusable would play a big part in that assessment), (b) Rates for projects are generally included in base rates established in rate cases. Amounts are recorded in plant in service accounts, CWIP and AFDUC. Recently, however, the use of trackers has been considered or the deferral of project costs for later recovery has been allowed. For example, utilities, upon request, have been allowed to defer costs associated with transmission and distribution integrity management programs and then later seek recovery when final amounts are known.</p>

State	<p>12. If your commission requires a project to be “used and useful” before a utility can recover any of its costs from its customers, how does this mandate reconcile with an FTY?</p> <p>a. Does your commission, for example, exclude the project cost as part of the revenue requirement in a general rate case?</p> <p>b. Does your commission, as an alternative, add the project cost to rates only after (1) the project comes on line and (2) the commission has determined the cost to be prudent, in a separate proceeding?</p>
Utah	<p>Rates must be “just and reasonable” for any cost recovery (see Utah Code Annotated (UCA) 54-4-4). The extent to which public utility plant is “used or to be used” (see <i>UCA 54-2-1(8)</i>) and the costs “just and reasonable” is the subject of rate recovery proceedings, regardless of test year. In addition to seeking cost recovery in a general rate case, Utah law allows public utilities to seek cost recovery of major plant additions outside of a general rate case, provided the projected in-service date of additions is within 18 months of the date of a final general rate case order (see <i>UCA 54-7-13.4</i>); (a) No, (b) No.</p>
Wisconsin	<p>(b) For large construction projects, the Commission requires a construction authorization or a Certificate of Public Convenience and Necessity whereby the utility needs authorization from the Commission before it can begin construction. The prudence determination is made during that authorization process.</p> <p>Regarding costs being included in rates, the Commission often provides a 50 percent current return on Construction Work in Progress (CWIP). Carrying costs on CWIP are either recovered currently or are recorded as an Allowance for Funds Used During Construction (AFUDC). If the timing of construction expenditures is particularly uncertain, the Commission may authorize the utility to record 100 percent AFUDC on the associated CWIP.</p> <p>Alternatively, if the utility is constructing a power plant or something that requires an unusually large amount of capital, the Commission may authorize a 100 percent current return on CWIP to improve the utility’s cash flow during construction. Also, the Commission has implemented two-step rate changes in a single proceeding. When the large project receives its certificate, rates then increase.</p>
Wyoming	<p>Through stipulations, rate basing of capital projects has been included at the time it was expected to go into service through phase-in rates.</p>

State	13. Does your commission make any true-ups or post-adjustments to rates when a utility's actual costs or sales depart from their forecasts? If it does, what are the necessary conditions?
Alabama	If the projected return at the following September 30 (end of the Fiscal Year) is above the allowed ROE, rates must be reduced to bring them to the adjusting point.
Connecticut	In the past, the Authority allowed tracking mechanisms for items such as pension expense. Recently, Connecticut enacted full decoupling for gas, water and electric utilities. While the mechanics slightly differs among utilities, they all employ annual revenue true-ups. There are no conditions for gas and water. Their over- or under-billings are trued-up to the revenue authorized in their last rate increase application. The mechanics for gas utilities are still being decided by the Authority, but ultimately gas also will include an annual true-up mechanism.
Florida	No
Illinois	No
Kentucky	No
Michigan	The Commission has, in certain instances, approved a revenue decoupling mechanism which would, to some degree, be impacted by sales.
Minnesota	No
Mississippi	Yes, the utility's actual earned ROI or ROE is compared to a range of no change calculated using the utility's approved ROE and ROI. If the actual return exceeds a certain level (e.g. 100 basis points above or below the approved ROI), an adjustment is made.
New York	Yes, for delivery revenues subject to an RDM, forecasted annual revenues are trued up with actual revenues. In a one-year litigated case, several expense categories can be subject to true-up, such as pension and OPEBs, environmental costs, storm costs, carrying costs associated with plant balances (downward only), and tree trimming (downward only). Multi-year rate plans may include additional true-ups, such as for property taxes and tax law changes. These reconciliations are done only if provided for in the Commission decision setting the rates.

State	13. Does your commission make any true-ups or post-adjustments to rates when a utility's actual costs or sales depart from their forecasts? If it does, what are the necessary conditions?
Oregon	Power cost adjustments and decoupling adjustments are the main ways of making adjustments.
Tennessee	Although we generally do not, we do have an experimental program in place for Chattanooga Gas Company for the revenue side of business. It attempts to keep revenues per customer constant (recognizing the decline in usage per customer) by adjusting rates up or down to maintain a predetermined revenue benchmark per customer. The Authority is currently reviewing that mechanism in a contested case proceeding.
Utah	Yes, the energy balancing account and renewable energy certificate revenue credit balancing account proceedings provide a recovery mechanism for differences between certain forecasts and actual cost/revenue.
Wisconsin	The only time the Commission authorizes a true-up or post-adjustment to rates is when a utility has authority or the Commission issues an order to defer costs or revenues associated with a particular activity. Without such authority or order, such adjustments would be considered retroactive ratemaking, which is prohibited in Wisconsin. The Commission can always bring a utility in for a rate review if earnings are too high or low, with the option, when earnings appear too high, to make rates subject to refund from that time on, pending review of financial information. Conversely, a utility has the ability to file for rate review at any time.
Wyoming	No.

State	14. From your experience, what would you identify as key factors in assuring utility customers that rates based on an FTY are “just and reasonable”?
Alabama	The true-up mechanism assures that rates, revenue, and return are all within the allowed range.
Connecticut	<p>The discovery phase is obviously the most important factor in the process of deciding what is “just and reasonable”. Through audit, interrogatories, cross-examination and subsequent requests for information, the Company is held to a certain standard of proving its request and having the request withstand scrutiny.</p> <p>The authority monitors utility performance post final Decision through order compliance for project completion and overall capital spending, as well as utility reported ROEs throughout the in-between rate case period.</p>
Florida	See <i>Response 2(a)</i> above.
Illinois	The additional information (See <i>Response 4</i>) that is required when a future test year is used provides the assurances that rates based on a FTY are “just and reasonable”.
Kentucky	To a great extent, the key is the sophistication of a utility’s forecasting capabilities.
Michigan	A rate case with sufficient evidence and participation.
Minnesota	Reliability of the underlying sales and weather data and the methodology used to conduct the forecast.
Mississippi	I would allow an FTY only in general rate cases if pure projections are used in which the projections can be fully vetted by experts. I would also provide for regular earnings reviews.
New York	The key factors in assuring utility customers that rates based on a FTY are “just and reasonable” are Staff’s expertise and the rate setting process. Staff consists of experienced professionals with background in accounting, economics, engineering, and law. The rate setting process is a rigorous, comprehensive process that is presided over by an Administrative Law Judge.

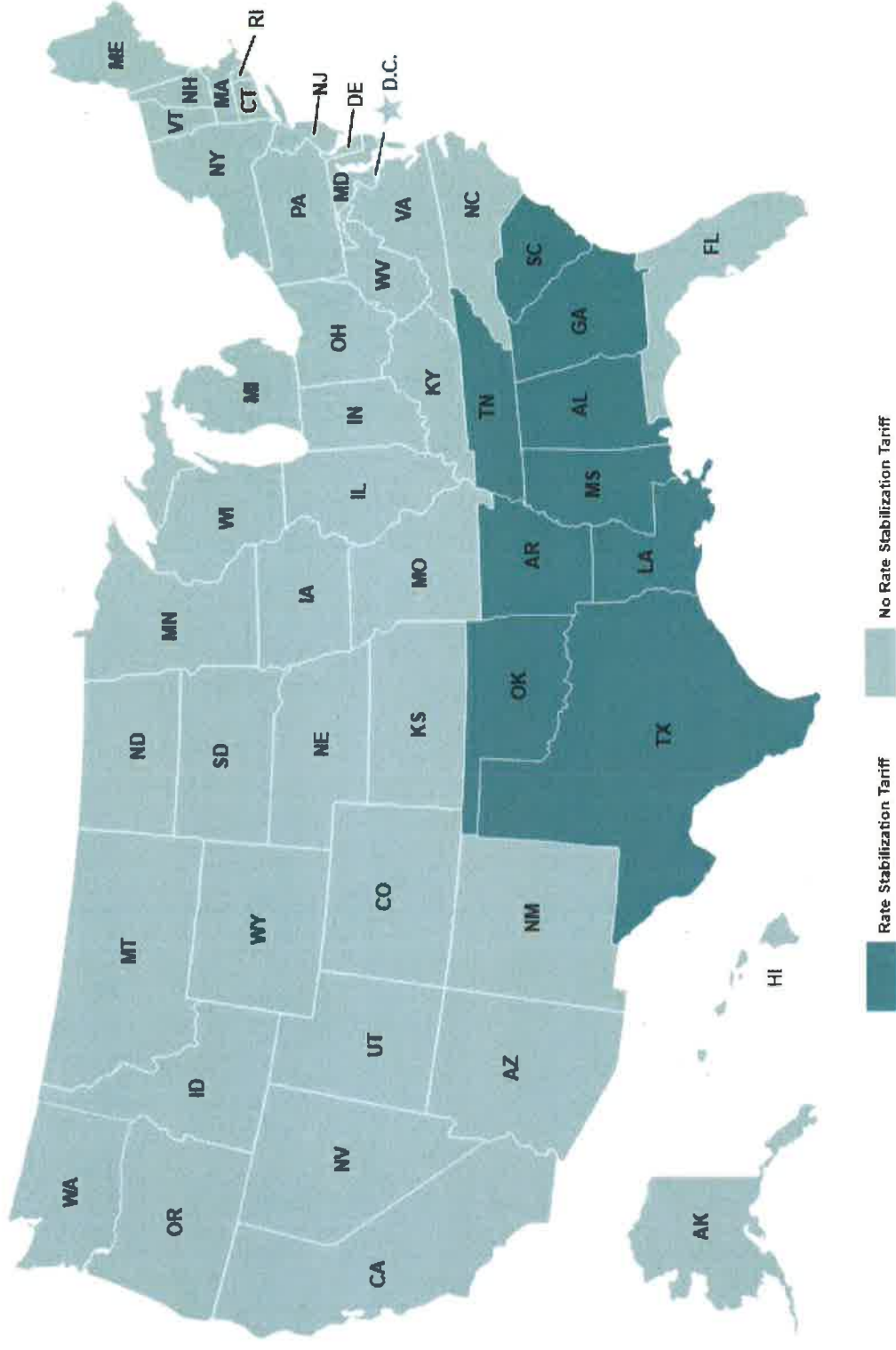
State	14. From your experience, what would you identify as key factors in assuring utility customers that rates based on an FTY are “just and reasonable”?
Oregon	Using a sound and well reasoned record of evidence by which to base decisions, and using an open process with public input are keys to having rates that are just and reasonable.
Tennessee	In establishing rates on future test years, the Authority takes into account all known and measurable changes for the historical period, then ascertains from the utility all changes anticipated in the foreseeable future. Since rates will continue into the future, it makes sense to match those rates with future costs of service rather than historical costs.
Utah	The Commission has not undertaken a formal review of this issue.
Wisconsin	(1) Utility rate applications are audited by Commission staff, (2) Commission staff compares forecasts to historical experience, (3) Commission staff reviews the ongoing actual return on equity over time compared to authorized, (4) Good, professional communication between Commission staff, the utilities, and interveners and (5) Commission staff objectivity; both real and perceived, greatly enhances the process.
Wyoming	Analyses of the forecasts, including third party forecasts, assumptions, and so forth during rate cases, as well as actual versus forecast analyses after the rate-effective period.

ATTACHMENT 3

CURRENT REGULATORY AND RATEMAKING ISSUES
AMERICAN GAS ASSOCIATION ACCOUNTING PRINCIPLES
COMMITTEE MEETING – AUGUST 14-16, 2017
INCLINE VILLAGE, NEVADA

RUSSELL A. FEINGOLD VICE PRESIDENT

RATE STABILIZATION MECHANISMS



Source: American Gas Association
(As of December 2016)

ATTACHMENT 4

**ARM
Annual Review Mechanism**

Applicable

To all gas sold and transported under tariff services, excluding approved special contracts.

Purpose

This Annual Review Mechanism ("ARM") is implemented under the provisions of Tennessee Code Annotated Section 65-5-103(d) (6), which authorizes the Company to opt for an annual review of the Company's rates. Pursuant to this ARM and the annual filings described in section IV.A below, the Company's tariff rates (excluding approved special contract rates) shall be adjusted to provide that the Company earns the Authorized Return on Equity. The rate adjustments implemented under this mechanism will reflect changes in the Company's revenues, cost of service, and rate base. The ARM may be terminated or modified as provided under Tennessee Code Annotated 65-5-103(d) (6) (D) and the Final Order in ~~TPUCRA~~ Docket 14-00146.

Definition

A) **Annual Filing Date** shall be the date the Company will make its annual ARM filing. The Annual Filing Date shall be no later than ~~January 15th~~ February 1 of each year.

B) **Historic Base Period** is defined as the twelve month period ending September 30th of each year prior to each Annual Filing Date.

~~C) **Forward Looking Test Year** is defined as the twelve months beginning June 1 of each calendar year.~~

~~D)C) **Authorized Return on Equity** is defined as the return on equity established in ~~TPUCRA~~ Docket No. 14-00146, or in any subsequent general rate case, whichever is more recent.~~

~~E)D) **Annual Reconciliation Revenue Requirement (Annual Reconciliation)** is the revenue requirement necessary to adjust the actual return on equity to the Authorized Return on Equity for the ~~Historic Base Period Forward Looking Test Year~~ immediately completed, all determined in accordance with the Approved Methodologies.~~

~~F)E) **New Matters** refers to any issue, adjustment, and/or ambiguity in or for any account, method of accounting or estimation, or ratemaking topic that would directly or indirectly affect the Annual ARM Filing for which there is no explicit prior determination by the ~~Commission~~ Authority regarding the Company.~~

~~F) **Approved Methodologies** are defined as the methodologies approved and adopted by the ~~Commission~~ Authority in Docket No. 14-00146 or in any subsequent general rate case, whichever is more recent, or as modified following a determination on a New Matter (defined in part F.).~~

G) **Annual Budget** shall refer to the Tennessee jurisdictional budget, including all appropriate corporate and division allocations for the fiscal period October 1 through September 30. This budget shall be verified by an officer of Atmos to be consistent with the Tennessee portion of the corporate budget underlying publicly available earnings guidance provided to investors at the beginning of the Atmos fiscal year.

H) Regulatory Asset or Regulatory Liability shall refer to amounts recorded on the Tennessee jurisdictional books and records plus appropriately allocated costs from Divisions 02, 012 and 091 of Atmos and shall be calculated as the difference between the return on equity earned in the Historic Base Period, adjusted to reflect the Approved Methodologies, compared with the Authorized Return on Equity, determined on an after-tax basis. The calculated Regulatory Asset or Regulatory Liability shall be recorded on the books of Atmos' Tennessee jurisdiction and recorded at the end of the Historic Base Period. The Regulatory Asset or Regulatory Liability balance shall also include a subaccount which tracks the over/under recovery of the prior years' reconciliation.

I) Return on Regulatory Asset or Return on Regulatory Liability shall refer to the application of the overall rate of return to the balance of the Regulatory Asset or Regulatory Liability, calculated from April 1, the mid-year date of the Historic Base Period on an after-tax basis. The application of interest shall accrue through May 31st of the month following the end of the Historic Base Period.

J) The Annual True-Up shall be the Regulatory Asset or Regulatory Liability plus the Return on Regulatory Asset or Return on Regulatory Liability.

a. This True-Up shall be recovered from (or returned to) ratepayers over the twelve months beginning June 1 or a date approved by TPUC.

a.b. The Annual Reconciliation True-Up shall be included and be a component of the customer charge component of base rates and shall no longer be effective after the Collection Period.

~~H~~K) The Collection Period shall be the twelve-month period beginning with the first month of the Annual Reconciliation True-Up is collected with termination of the rate to occur exactly twelve months later.

~~H~~L) Interim Regulatory Asset Deferral (IRAD)— shall include the Depreciation Expense charged to balances of Plant in Service that are completed and properly charged to Account 101 within the period June 1, 2018 and September 30, 2018. The IRAD would also include carrying charged at the Overall Rate of Return – stated on a monthly basis, applied to the balances of Plant in Service that are completed and properly charged to Account 101 within the period June 1, 2019 and September 30, 2018. The IRAD shall then be included in Rate Base in the subsequent ARM filing to be made no later than January 15, 2020. The IRAD balance shall be included as a component of Rate Base and amortized ratably to Operating Expenses over a period determined by TPUC within the referenced filing. The IRAD shall cease accruing carrying charges at such time as new base rates become effective resulting from the filing made on or before January 15, 2020.

ARM Filing

On the Annual Filing Date each year the Company shall file with the ~~Authority Commission~~ schedules and supporting work papers that reflect the actual annual amounts as reflected on the books and records of the Company for the Historic Base Period ~~as well as the projected amounts expected during the Forward Looking Test Year.~~

A. **Contents of the Annual Filing.** The ARM filing shall include:

Schedule 1: Cost of Service

Summarizes the elements of cost of service, including gas cost expense, operation and maintenance 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. Compares the total cost of service to revenues at present rates in order to calculate a net revenue deficiency/sufficiency.

Schedule 2: Summary of Revenues at Present Rates

Presents per book revenues for the Historic Base Period and the projected ~~Forward Looking Test Year revenues.~~

Schedule 3: Cost of Gas

Presents Historic Base Period per books gas cost ~~and the projected Forward Looking Test Year cost of gas.~~ Includes rate making adjustments consistent with the Approved Methodologies.

Schedule 4: Operation and Maintenance Expenses

Presents Historic Base Period per books operation and maintenance expense ~~and the projected Forward Looking Test Year operation and maintenance expense.~~ Includes rate making adjustments consistent with the Approved Methodologies.

Schedule 5: Taxes Other than Income

Presents Historic Base Period per books taxes other than income taxes expense ~~and the projected Forward Looking Test Year taxes other than income taxes expense.~~ Includes rate making adjustments consistent with the Approved Methodologies.

Schedule 6: Depreciation and Amortization Expenses

Presents Historic Base Period per books depreciation and amortization expense ~~and the projected Forward Looking Test Year depreciation and amortization expense.~~ Includes rate making adjustments consistent with the Approved Methodologies and adjustments to reflect impact of proposed depreciation rates, if any, as defined in Section ARM Filing, IV-B.b., located on Sheet 34.5 of this Tariff.

Schedule 7: Rate Base and Return

Presents the calculation of the Historic Base Period rate base, ~~and projected Forward Looking Test Year rate base~~. The rate base includes the projected thirteen month averages of the original cost of plant, accumulated depreciation, construction work in progress ("CWIP"), storage gas investment, materials and supplies, cash working capital, accumulated deferred income tax ("ADIT"), customer advances, customer deposits, accumulated interest on customer deposits. Includes rate making adjustments consistent with the Approved Methodologies.

Schedule 8: Computation of State Excise and Income Taxes

Presents the calculation of state excise taxes and income taxes on the required return on rate base for the Historic Base Period ~~and Forward Looking Test Year~~.

Schedule 9: Overall Cost of Capital

Presents the calculation of the overall cost of capital based on the capital structure, debt cost rates and the required rate of return on equity as defined in section ARM Filing, IV-B-e. located on Sheet 34.5 of this Tariff.

Schedule 10: Rate of Return

Presents the calculation of a rate of return on rate base and a rate of return on the equity financed portion of rate base for the Base Period ~~and the Forward Looking Test Year~~, with costs and revenues as presented in Schedules 2 through 9.

Schedule 11: Proof of Revenues and Calculation of Rates

Presents the forecasted billing determinants and calculation of new tariff rates by customer class and rate schedule for the ~~Historic Base Period Forward Looking Test Year~~ consistent with the cost of service and net revenue deficiency/sufficiency presented in Schedule 1.

1. Schedule 11-1: Proof of Revenues and Calculation of Rates, Historic Base Period Margin at Present Rates
- ~~2. Schedule 11-2: Proof of Revenues and Calculation of Rates, Forward Looking Test Year Margin at Present Rates~~
- ~~3.2.~~ Schedule 11-~~23~~: Proof of Revenues and Calculation of Rates, Rate Design
- ~~4.3.~~ Schedule 11-~~34~~: Proof of Revenues and Calculation of Rates, Summary of Present and Proposed Rates.

Schedule 12: Calculation of Annual Reconciliation Revenue Requirement

Calculates the Annual Reconciliation Revenue Requirement as described in section VII.

TPUCRA Staff Revenue Requirement Schedules from Docket 14-00146 Staff Data**Requests Relied-Upon Files:**

Referenced years of documents to be updated with each annual filing

1. 2013 Blending percentages for Greenville and CKV Center Effective Apr-13
2. 2014 Blending percentages for Greenville and CKV Center Effective Oct-13
3. ADIT TN Projection Oct 2014 to Rates
4. Cash Working Capital
5. Depreciation
6. Essbase Support Final
7. FY 2015 Ad Valorem Budget
8. FY 14 Composite Factors for Rates_11.11.13
9. FY15 Blending percentages for Greenville and CKV Center Effective Oct-14
10. FY15 Composite Factors for Rates_11.5.14
11. Gas Storage forecast 2014_Thru May 2016
12. Income Statement
13. Inflation Calculation
14. Intercompany Lease Property 2014
15. KMD FY15 CapEx Projected Budget Final
16. KYMidStates CapEx Jul14
17. O&M Summary Historic Year
18. O&M Summary Test Year-Budget FY15
19. Plant Balances 2015 TN Case
20. Reg Asset Tenn Cales Thru 073114
21. SSU FY15 CapEx Projected Budget as of 07-31-14
22. SSU-CapEx Projections-2014
23. Taxes Other FY15 Details 093
24. Taxes Other Historical
25. TN SSU Asset Depreciation activity by month Jun-13 to Jun-14
26. TN Depreciation Rates_03-2014
27. TN Office Leases 2015
28. TN-FYE2014-AcctAllocation
29. TPUCRA Customer Deposits Interest Rate
30. Historic Base Period ~~and Forward Looking Test Year~~ Billing Determinants (Confidential)

Weather Normalization

1. 30 Year Smoothed Normal Bristol Weather
2. 30 Year Smoothed Normal Knoxville Weather
3. 30 Year Smoothed Normal Nashville Weather
4. 30 Year Smoothed Normal Paducah Weather

Tennessee minimum filing requirement #38

Trial Balance

General Ledger

B. Revenue Requirements. In presenting data that demonstrates the ~~Forward-Looking-Test-Year~~Historic Base Period revenue requirements:

- a. Rate Base and Cash Working Capital requirements will be determined in accordance with the Approved Methodologies. The Company will use the factors derived from the Lead/Lag study performed in its most recent general rate case in calculating cash working capital requirements.
- b. Depreciation expenses shall reflect the depreciation rates approved by the ~~Commission~~Authority in the Company's most recent general rate case. If and when the Company performs a new depreciation study, the new study will be filed with the ~~Commission~~Authority. Following any appropriate discovery and rebuttal, and conditioned upon approval by the ~~Commission~~Authority of new rates, the Company shall calculate depreciation expenses using the newly approved rates in its subsequent Annual ARM Filing.
- c. ~~Forward-Looking-Test-Year~~Historic Base Period Operating Expenses (O&M, Taxes other than Income Taxes, and Income Taxes) will be ~~determined~~projected using the Approved Methodologies.
- d. The Historic Base Period data shall include actual revenues by billing component, ~~and the Forward-Looking-Test-Year data shall reflect adjustments to forecast revenue billing determinants based on the revenue forecasting methodologies included in the Approved Methodologies for projecting the number of customers and average customer use.~~
- e. Cost of Capital will be calculated using the Authorized Return on Equity. The Company's cost of debt and capital structure will be calculated using the Approved Methodologies.
- f. Schedules filed pursuant to this mechanism shall utilize the Approved Methodologies as well as other adjustments required to account properly for atypical, unusual, or nonrecurring events.

C. New Matters. If New Matters arise, the Company, ~~Commission~~T.R.A. Staff, and the Consumer Advocate will endeavor to reach a resolved treatment, or if necessary, will seek a ruling from the ~~Commission~~Authority.

Attestation

With each Annual ARM Filing, a Company officer shall, as of the date of each Annual ARM Filing, affirmatively represent and warrant, upon information and belief formed after reasonable inquiry, by signing a certificate ("Certificate") under oath: (1) That the Company's Annual ARM Filing has been prepared in accordance with the Approved Methodologies, or that any deviation from or the resolution of any ambiguities in the Approved Methodologies has been affirmatively disclosed and explained in a document attached to such affidavit; (2) That all New Matters have been affirmatively disclosed and explained in a document attached to such affidavit; (3) That the Variance Report (as defined in section IX) includes all matters that are required; (4) That no Disallowed Items have been included in the Company's Annual ARM Filing; (5) That, except as expressly disclosed in a separate schedule dedicated to such disclosure, there have been no additions, deletions, or modifications to the accounts or subaccount used by the Company as such accounts have been provided to the ~~Authority~~Commission and Consumer Advocate; (6) That there has been no change in the method of accounting or estimation in any account or subaccount referenced and described in the immediately preceding subsection (5); and (7) That the Company's Annual Budget is consistent with the Tennessee portion of the corporate budget underlying publicly available earnings guidance provided to investors at the beginning of the Atmos fiscal year.

I. June 1 Rate Adjustment

Pursuant to the provisions of Tennessee Code Annotated Section 65-5-103(d)(6)(C), based upon ~~the Forward Looking Test Year and~~ the Approved Methodologies, the Company's tariff rates shall be adjusted to provide for the Company to earn the Authorized Return on Equity applicable to the Historic Base Year. Anything else to the contrary notwithstanding, in determining the annual rate adjustment specified by this paragraph, calculations shall include the Annual Reconciliation Revenue Requirement adjustment discussed in section ~~VII~~ below. All tariff rates shall be adjusted in proportion to the relative adjusted Historic Base Period revenue share of each class and rate, as specified in the Approved Methodologies. The Company shall file revised tariffs reflecting the new rates. The revised tariffs and new rates shall be effective for bills rendered on or after the June 1 or on a date approved by the Commission immediately following the Annual Filing Date. Approved special contract rates shall be exempt from this ARM and shall not be adjusted hereunder.

II. Annual Reconciliation to Authorized Return on Equity

On or before ~~September 1~~ January 15th of each year, the Company shall file with the Commission Authority, and shall provide a copy to the Consumer Advocate, a reconciliation of actual results ("Annual Reconciliation") to the Authorized Return on Equity ~~for the Forward Looking Test Year immediately completed~~. The Annual Reconciliation shall include a calculation of the actual cost of service, determined in accordance with the Approved Methodologies, ~~for the Forward Looking Test Year immediately completed~~; using the same revenue requirement model used within previous ARM filings in each Annual Filing, substituting actual results in place of previously forecasted data for all aspects of cost of service, excluding revenue calculations. The actual cost of service shall be compared with actual booked revenue, ignoring the revenue impact of any prior year reconciliation, to determine the revenue requirement deficiency or excess ("Annual Reconciliation Revenue Requirement") necessary to adjust the actual Return on Equity for the Forward Looking Test Year immediately completed, all determined in accordance with the Approved Methodologies. Interest shall ~~be added~~ accrue onto the "Annual Reconciliation Revenue Requirement" (whether positive or negative) as described in the Definition Section through the period at which new rates would become effective. The interest rate shall be the Overall Cost of Capital as stated on Schedule 9 of the Annual ARM Filing compounded for 2 years. New rates shall be calculated to produce revenue designed to recover the actual cost of service including the deficiency or excess resulting from the Annual Reconciliation calculation a net rate adjustment comprised of the Annual Reconciliation Revenue Requirement from the most recently completed Forward Looking Test Year and the revenue sufficiency/deficiency for the ensuing Forward Looking Test Year, all determined in accordance with the Approved Methodologies. The resulting reconciliation amount approved in Docket No. 18-00097 filed on August 31, 2018 shall be deferred until the resolution of the initial Annual Reconciliation True-Up at which time the reconciliation amount including a return, shall be added to or subtracted from the resulting Annual Reconciliation Revenue Requirement. The Annual Reconciliation rates shall be effective on bills rendered on and after June 1 of each year, or on a date approved by the Commission. All tariff rates (except Special Contract rates, which shall not be effective) shall be adjusted in proportion to the relative base revenue share of each class as specified in the Approved Methodologies.

III. The Company will simultaneously copy the Consumer Advocate on all filings made pursuant to this ARM Tariff.

IV. Variance Reporting and ~~CAPD~~ Consumer Advocate Authority to Petition

Variance Reporting - As part of its Annual ARM Filing, Atmos Energy shall prepare and file with the ~~TRA~~ Commission, with a copy to the Consumer Advocate, a Variance Report that identifies and explains each and every Atmos Energy revenue and operating expense account and/or subaccount for which the Tennessee amount (including amounts allocated to Tennessee) either exceeds the prior year's amount (based on amounts either as filed by Atmos Energy in the Annual ARM Filing or as adjusted by the ~~Commission~~ TRA under Tenn. Code Ann. § 65-5-103(d)(6)(C)) by 5% and \$30,000; or exceeding the amount (based on amounts either as filed by Atmos Energy in the Annual ARM Filing or as adjusted by the ~~TRA~~ Commission under Tenn. Code Ann. § 65-5-103(d)(6)(C)) in such account in the third preceding year by 10% and \$60,000 or has been added or deleted or modified in form or substance in any way. As to any account and/or subaccount (and including without limitation any process related directly or indirectly to any such account or subaccount) included on, Variance Report, the ~~Commission~~ TRA and/or Consumer Advocate shall have the right in its discretion to request additional information and an explanation from Atmos Energy. Atmos Energy will provide any such information or explanation requested within ten business days of such request. The Consumer Advocate, further, has the right in its discretion bring such account and/or subaccount (or related process) to the attention of the ~~Authority~~ Commission and to request the ~~Authority~~ Commission to review and consider such account and/or subaccount (or related process). Without limiting the ~~Commission~~ Authority's discretion, the Consumer Advocate may recommend any form or process of review it deems appropriate, including without limitation a review that would include the appointment of a third party to review and report on the account and/or subaccount (or related process).

~~Consumer Advocate~~ APD Authority to Petition -- The ~~Consumer Advocate~~ APD shall have the right in its sole discretion to file a petition or complain asking the ~~Commission~~ TRA to terminate or modify any ARM Tariff resulting from this Docket or any directly or indirectly related docket or to take any other action contemplated by Tenn. Code Ann. § 65-5-103(d)(6). Atmos Energy shall not oppose the ~~Consumer Advocate~~ APD's petition or complaint filed under this Section on the grounds that such a proceeding is not statutorily authorized or that ~~Consumer Advocate~~ APD is not authorized to bring such a proceeding; provided, however, that Atmos Energy reserve all rights with regard to the merits of any termination or modification or other relief that the ~~Consumer Advocate~~ APD may request a position that the ~~Consumer Advocate~~ APD may assert in any such proceeding.

ATTACHMENT 5

**ARM
Annual Review Mechanism**

Applicable

To all gas sold and transported under tariff services, excluding approved special contracts.

Purpose

This Annual Review Mechanism ("ARM") is implemented under the provisions of Tennessee Code Annotated Section 65-5-103(d) (6), which authorizes the Company to opt for an annual review of the Company's rates. Pursuant to this ARM and the annual filings described in section IV.A below, the Company's tariff rates (excluding approved special contract rates) shall be adjusted to provide that the Company earns the Authorized Return on Equity. The rate adjustments implemented under this mechanism will reflect changes in the Company's revenues, cost of service, and rate base. The ARM may be terminated or modified as provided under Tennessee Code Annotated 65-5-103(d) (6) (D) and the Final Order in TPUC Docket 14-00146.

Definition

A) **Annual Filing Date** shall be the date the Company will make its annual ARM filing. The Annual Filing Date shall be no later than January 15th of each year.

B) **Historic Base Period** is defined as the twelve month period ending September 30th of each year prior to each Annual Filing Date.

C) **Authorized Return on Equity** is defined as the return on equity established in TPUC Docket No. 14-00146, or in any subsequent general rate case, whichever is more recent.

D) **Annual Reconciliation Revenue Requirement (Annual Reconciliation)** is the revenue requirement necessary to adjust the actual return on equity to the Authorized Return on Equity for the Historic Base Period immediately completed, all determined in accordance with the Approved Methodologies.

E) **New Matters** refers to any issue, adjustment, and/or ambiguity in or for any account, method of accounting or estimation, or ratemaking topic that would directly or indirectly affect the Annual ARM Filing for which there is no explicit prior determination by the Commission regarding the Company.

F) **Approved Methodologies** are defined as the methodologies approved and adopted by the Commission in Docket No. 14-00146 or in any subsequent general rate case, whichever is more recent, or as modified following a determination on a New Matter (defined in part F.).

G) **Annual Budget** shall refer to the Tennessee jurisdictional budget, including all appropriate corporate and division allocations for the fiscal period October 1 through September 30. This budget shall be verified by an officer of Atmos to be consistent with the Tennessee portion of the corporate budget underlying publicly available earnings guidance provided to investors at the beginning of the Atmos fiscal year.

H) **Regulatory Asset or Regulatory Liability** shall refer to amounts recorded on the Tennessee jurisdictional books and records plus appropriately allocated costs from Divisions 02, 012 and 091 of Atmos and shall be calculated as the difference between the return on equity earned in the Historic Base Period, adjusted to reflect the Approved Methodologies, compared with the Authorized Return on Equity, determined on an after-tax basis. The calculated Regulatory Asset or Regulatory Liability shall be recorded on the books of Atmos' Tennessee jurisdiction and recorded at the end of the Historic Base Period. The Regulatory Asset or Regulatory Liability balance shall also include a subaccount which tracks the over/under recovery of the prior years' reconciliation.

I) **Return on Regulatory Asset or Return on Regulatory Liability** shall refer to the application of the overall rate of return to the balance of the Regulatory Asset or Regulatory Liability, calculated from April 1, the mid-year date of the Historic Base Period on an after-tax basis. The application of interest shall accrue through May 31st of the month following the end of the Historic Base Period.

J) The **Annual True-Up** shall be the Regulatory Asset or Regulatory Liability plus the Return on Regulatory Asset or Return on Regulatory Liability.

- a. This True-Up shall be recovered from (or returned to) ratepayers over the twelve months beginning June 1 or a date approved by TPUC.
- b. The Annual Reconciliation True-Up shall be included and be a component of the customer charge component of base rates and shall no longer be effective after the Collection Period.

K) The **Collection Period** shall be the twelve-month period beginning with the first month of the Annual Reconciliation True-Up is collected with termination of the rate to occur exactly twelve months later.

L) **Interim Regulatory Asset Deferral (IRAD)**— shall include the Depreciation Expense charged to balances of Plant in Service that are completed and properly charged to Account 101 within the period June 1, 2018 and September 30, 2018. The IRAD would also include carrying charged at the Overall Rate of Return – stated on a monthly basis, applied to the balances of Plant in Service that are completed and properly charged to Account 101 within the period June 1, 2019 and September 30, 2018. The IRAD shall then be included in Rate Base in the subsequent ARM filing to be made no later than January 15, 2020. The IRAD balance shall be included as a component of Rate Base and amortized ratably to Operating Expenses over a period determined by TPUC within the referenced filing. The IRAD shall cease accruing carrying charges at such time as new base rates become effective resulting from the filing made on or before January 15, 2020.

ARM Filing

On the Annual Filing Date each year the Company shall file with the Commission schedules and supporting work papers that reflect the actual annual amounts as reflected on the books and records of the Company for the Historic Base Period.

A. **Contents of the Annual Filing.** The ARM filing shall include:

Schedule 1: Cost of Service

Summarizes the elements of cost of service, including gas cost expense, operation and maintenance 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. Compares the total cost of service to revenues at present rates in order to calculate a net revenue deficiency/sufficiency.

Schedule 2: Summary of Revenues at Present Rates

Presents per book revenues for the Historic Base Period and the projected.

Schedule 3: Cost of Gas

Presents Historic Base Period per books gas cost. Includes rate making adjustments consistent with the Approved Methodologies.

Schedule 4: Operation and Maintenance Expenses

Presents Historic Base Period per books operation and maintenance expense. Includes rate making adjustments consistent with the Approved Methodologies.

Schedule 5: Taxes Other than Income

Presents Historic Base Period per books taxes other than income taxes expense. Includes rate making adjustments consistent with the Approved Methodologies.

Schedule 6: Depreciation and Amortization Expenses

Presents Historic Base Period per books depreciation and amortization expense. Includes rate making adjustments consistent with the Approved Methodologies and adjustments to reflect impact of proposed depreciation rates, if any, as defined in Section ARM Filing, B.b., located on Sheet 34.5 of this Tariff.

Schedule 7: Rate Base and Return

Presents the calculation of the Historic Base Period rate base. The rate base includes the projected thirteen month averages of the original cost of plant, accumulated depreciation, construction work in progress ("CWIP"), storage gas investment, materials and supplies, cash working capital, accumulated deferred income tax ("ADIT"), customer advances, customer deposits, accumulated interest on customer deposits. Includes rate making adjustments consistent with the Approved Methodologies.

Schedule 8: Computation of State Excise and Income Taxes

Presents the calculation of state excise taxes and income taxes on the required return on rate base for the Historic Base Period.

Schedule 9: Overall Cost of Capital

Presents the calculation of the overall cost of capital based on the capital structure, debt cost rates and the required rate of return on equity as defined in section ARM Filing, B.e. located on Sheet 34.5 of this Tariff.

Schedule 10: Rate of Return

Presents the calculation of a rate of return on rate base and a rate of return on the equity financed portion of rate base for the Base Period, with costs and revenues as presented in Schedules 2 through 9.

Schedule 11: Proof of Revenues and Calculation of Rates

Presents the forecasted billing determinants and calculation of new tariff rates by customer class and rate schedule for the Historic Base Period consistent with the cost of service and net revenue deficiency/sufficiency presented in Schedule 1.

1. Schedule 11-1: Proof of Revenues and Calculation of Rates, Historic Base Period Margin at Present Rates
2. Schedule 11-2: Proof of Revenues and Calculation of Rates, Rate Design
3. Schedule 11-3: Proof of Revenues and Calculation of Rates, Summary of Present and Proposed Rates.

Schedule 12: Calculation of Annual Reconciliation Revenue Requirement

Calculates the Annual Reconciliation Revenue Requirement as described in section VII.

TPUC Staff Revenue Requirement Schedules from Docket 14-00146 Staff Data**Requests Relied-Upon Files:**

Referenced years of documents to be updated with each annual filing

1. 2013 Blending percentages for Greenville and CKV Center Effective Apr-13
2. 2014 Blending percentages for Greenville and CKV Center Effective Oct-13
3. ADIT TN Projection Oct 2014 to Rates
4. Cash Working Capital
5. Depreciation
6. Essbase Support Final
7. FY 2015 Ad Valorem Budget
8. FY 14 Composite Factors for Rates_11.11.13
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10. FY15 Composite Factors for Rates_11.5.14
11. Gas Storage forecast 2014_Thru May 2016
12. Income Statement
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17. O&M Summary Historic Year
18. O&M Summary Test Year-Budget FY15
19. Plant Balances 2015 TN Case
20. Reg Asset Tenn Cales Thru 073114
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22. SSU-CapEx Projections-2014
23. Taxes Other FY15 Details 093
24. Taxes Other Historical
25. TN SSU Asset Depreciation activity by month Jun-13 to Jun-14
26. TN Depreciation Rates_03-2014
27. TN Office Leases 2015
28. TN-FYE2014-AcctAllocation
29. TPUC Customer Deposits Interest Rate
30. Historic Base Period Billing Determinants (Confidential)

Weather Normalization

1. 30 Year Smoothed Normal Bristol Weather
2. 30 Year Smoothed Normal Knoxville Weather
3. 30 Year Smoothed Normal Nashville Weather
4. 30 Year Smoothed Normal Paducah Weather

Tennessee minimum filing requirement #38

Trial Balance

General Ledger

B. Revenue Requirements. In presenting data that demonstrates the Historic Base Period revenue requirements:

- a. Rate Base and Cash Working Capital requirements will be determined in accordance with the Approved Methodologies. The Company will use the factors derived from the Lead/Lag study performed in its most recent general rate case in calculating cash working capital requirements.
- b. Depreciation expenses shall reflect the depreciation rates approved by the Commission in the Company's most recent general rate case. If and when the Company performs a new depreciation study, the new study will be filed with the Commission. Following any appropriate discovery and rebuttal, and conditioned upon approval by the Commission of new rates, the Company shall calculate depreciation expenses using the newly approved rates in its subsequent Annual ARM Filing.
- c. Historic Base Period Operating Expenses (O&M, Taxes other than Income Taxes, and Income Taxes) will be determined using the Approved Methodologies.
- d. The Historic Base Period data shall include actual revenues by billing component.
- e. Cost of Capital will be calculated using the Authorized Return on Equity. The Company's cost of debt and capital structure will be calculated using the Approved Methodologies.
- f. Schedules filed pursuant to this mechanism shall utilize the Approved Methodologies as well as other adjustments required to account properly for atypical, unusual, or nonrecurring events.

C. New Matters. If New Matters arise, the Company, Commission Staff, and the Consumer Advocate will endeavor to reach a resolved treatment, or if necessary, will seek a ruling from the Commission.

Attestation

With each Annual ARM Filing, a Company officer shall, as of the date of each Annual ARM Filing, affirmatively represent and warrant, upon information and belief formed after reasonable inquiry, by signing a certificate ("Certificate") under oath: (1) That the Company's Annual ARM Filing has been prepared in accordance with the Approved Methodologies, or that any deviation from or the resolution of any ambiguities in the Approved Methodologies has been affirmatively disclosed and explained in a document attached to such affidavit; (2) That all New Matters have been affirmatively disclosed and explained in a document attached to such affidavit; (3) That the Variance Report (as defined in section IX) includes all matters that are required; (4) That no Disallowed Items have been included in the Company's Annual ARM Filing; (5) That, except as expressly disclosed in a separate schedule dedicated to such disclosure, there have been no additions, deletions, or modifications to the accounts or subaccount used by the Company as such accounts have been provided to the Commission and Consumer Advocate; (6) That there has been no change in the method of accounting or estimation in any account or subaccount referenced and described in the immediately preceding subsection (5); and (7) That the Company's Annual Budget is consistent with the Tennessee portion of the corporate budget underlying publicly available earnings guidance provided to investors at the beginning of the Atmos fiscal year.

I. June 1 Rate Adjustment

Pursuant to the provisions of Tennessee Code Annotated Section 65-5-103(d)(6)(C), based upon the Approved Methodologies, the Company's tariff rates shall be adjusted to provide for the Company to earn the Authorized Return on Equity applicable to the Historic Base Year. Anything else to the contrary notwithstanding, in determining the annual rate adjustment specified by this paragraph, calculations shall include the Annual Reconciliation Revenue Requirement adjustment discussed in section II below. All tariff rates shall be adjusted in proportion to the relative adjusted Historic Base Period revenue share of each class and rate, as specified in the Approved Methodologies. The Company shall file revised tariffs reflecting the new rates. The revised tariffs and new rates shall be effective for bills rendered on or after the June 1 or on a date approved by the Commission immediately following the Annual Filing Date. Approved special contract rates shall be exempt from this ARM and shall not be adjusted hereunder.

II. Annual Reconciliation to Authorized Return on Equity

On or before January 15th of each year, the Company shall file with the Commission, and shall provide a copy to the Consumer Advocate, a reconciliation of actual results ("Annual Reconciliation") to the Authorized Return on Equity. The Annual Reconciliation shall include a calculation of the actual cost of service, determined in accordance with the Approved Methodologies using the same revenue requirement model used within previous ARM filings. The actual cost of service shall be compared with actual booked revenue to determine the revenue requirement deficiency or excess ("Annual Reconciliation Revenue Requirement"). Interest shall accrue onto the "Annual Reconciliation Revenue Requirement" (whether positive or negative) as described in the Definition Section through the period at which new rates would become effective. New rates shall be calculated to produce revenue designed to recover the actual cost of service including the deficiency or excess resulting from the Annual Reconciliation calculation. The reconciliation amount approved in Docket No. 18-00097 filed on August 31, 2018 shall be deferred until the resolution of the initial Annual Reconciliation True-Up at which time the reconciliation amount including a return, shall be added to or subtracted from the resulting Annual Reconciliation Revenue Requirement. The Annual Reconciliation rates shall be effective on bills rendered on and after June 1 of each year, or on a date approved by the Commission. All tariff rates (except Special Contract rates, which shall not be effective) shall be adjusted in proportion to the relative base revenue share of each class as specified in the Approved Methodologies.

III. The Company will simultaneously copy the Consumer Advocate on all filings made pursuant to this ARM Tariff.

IV. Variance Reporting and Consumer Advocate Authority to Petition

Variance Reporting - As part of its Annual ARM Filing, Atmos Energy shall prepare and file with the Commission, with a copy to the Consumer Advocate, a Variance Report that identifies and explains each and every Atmos Energy revenue and operating expense account and/or subaccount for which the Tennessee amount (including amounts allocated to Tennessee) either exceeds the prior year's amount (based on amounts either as filed by Atmos Energy in the Annual ARM Filing or as adjusted by the Commission under Tenn. Code Ann. § 65-5-103(d)(6)(C)) by 5% and \$30,000; or exceeding the amount (based on amounts either as filed by Atmos Energy in the Annual ARM Filing or as adjusted by the Commission under Tenn. Code Ann. § 65-5-103(d)(6)(C)) in such account in the third preceding year by 10% and \$60,000 or has been added or deleted or modified in form or substance in any way. As to any account and/or subaccount (and including without limitation any process related directly or indirectly to any such account or subaccount) included on, Variance Report, the Commission and/or Consumer Advocate shall have the right in its discretion to request additional information and an explanation from Atmos Energy. Atmos Energy will provide any such information or explanation requested within ten business days of such request. The Consumer Advocate, further, has the right in its discretion bring such account and/or subaccount (or related process) to the attention of the Commission and to request the Commission to review and consider such account and/or subaccount (or related process). Without limiting the Commission's discretion, the Consumer Advocate may recommend any form or process of review it deems appropriate, including without limitation a review that would include the appointment of a third party to review and report on the account and/or subaccount (or related process).

Consumer Advocate Authority to Petition -- The Consumer Advocate shall have the right in its sole discretion to file a petition or complain asking the Commission to terminate or modify any ARM Tariff resulting from this Docket or any directly or indirectly related docket or to take any other action contemplated by Tenn. Code Ann. § 65-5-103(d)(6). Atmos Energy shall not oppose the Consumer Advocate's petition or complaint filed under this Section on the grounds that such a proceeding is not statutorily authorized or that Consumer Advocate is not authorized to bring such a proceeding; provided, however, that Atmos Energy reserve all rights with regard to the merits of any termination or modification or other relief that the Consumer Advocate may request a position that the Consumer Advocate may assert in any such proceeding.

ATTACHMENT 6

18-00067 Atmos ARM Timelines

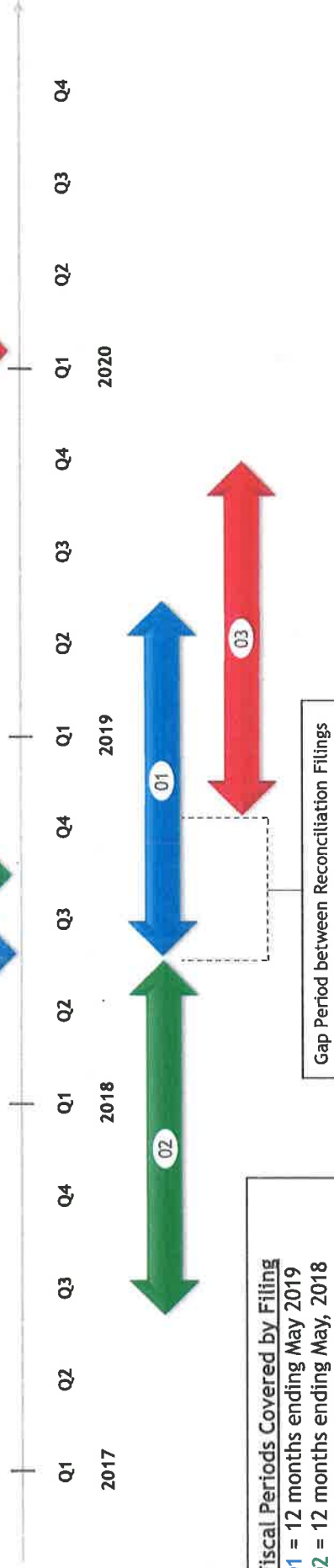
ARM Petition

18-00067
June 16, 2018

ARM Reconciliation

18-00097
Aug. 31, 2018

ARM Reconciliation -
Proposed by CPAD
20-000XX
Jan. 15, 2020 (on or before)



Fiscal Periods Covered by Filing

01 = 12 months ending May 2019

02 = 12 months ending May, 2018

03 = 12 months ending September, 2019

ATTACHMENT 7

**IN THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE**

IN RE:)	
)	
ATMOS ENERGY CORPORATION)	
GENERAL RATE CASE AND PETITION)	DOCKET NO. 14-00146
TO ADOPT ANNUAL REVIEW)	
MECHANISM AND ARM TARIFF)	

STIPULATION AND SETTLEMENT AGREEMENT

For the purpose of settling this case, Tennessee Regulatory Authority ("TRA" or "Authority") Docket No. 14-00146, Herbert H. Slatery III, the Tennessee Attorney General and Reporter, by and through the Consumer Advocate and Protection Division ("Consumer Advocate" or "CAPD") and Atmos Energy Corporation ("Atmos Energy" or "Company") respectfully submit this Stipulation and Settlement Agreement ("Settlement Agreement"). Subject to Authority approval, the Consumer Advocate and Atmos Energy (individually, a "Party" and, collectively, the "Parties") agree to the following:

BACKGROUND

1. Atmos Energy is incorporated under the laws of the State of Texas and the Commonwealth of Virginia and is engaged in the business of transporting, distributing and selling natural gas in Bedford, Blount, Carter, Greene, Hamblen, Maury, Moore, Obion, Rutherford, Sullivan and Williamson Counties within the State of Tennessee, with its principal Tennessee office and place of business located at 810 Crescent Centre Drive, Suite 600, Franklin, Tennessee 37067-6226.

2. The Tennessee public utility operations of Atmos Energy are subject to the jurisdiction of the TRA, pursuant to Chapter 4 of Title 65 of the Tennessee Code Annotated.

3. On November 25, 2014, Atmos Energy filed a Petition of Atmos Energy

Corporation for a General Rate Case and Petition to Adopt Annual Review Mechanism and ARM Tariff ("Petition") in this TRA Docket. In the first part of the Petition, Atmos Energy claimed a revenue deficiency, sought an increase in its annual revenues of approximately \$5.89 million, and sought adoption of methodologies that would enable it to opt into an annual review of rates under Tenn. Code Ann. § 65-5-103(d)(6) (referred to as part one in the Petition and herein as the "Rate Case"). In the second part of the Petition, Atmos Energy sought approval of an Annual Review Mechanism ("ARM") and ARM tariff.

4. On December 23, 2014, the Consumer Advocate filed a Petition to Intervene. By order dated January 7, 2015, intervention was granted.

5. The Parties to this Settlement Agreement have engaged in substantial discovery. The Company also has provided information informally in response to questions from the Consumer Advocate and its witnesses, and has responded to additional discovery requests from TRA Staff.

6. The Consumer Advocate filed direct testimony on April 7, 2015, challenging several aspects of the Company's proposed rate increase and ARM proposal. Among the aspects challenged, as shown in the testimony of the CAPD witnesses filed in this Docket, were the Company's calculation of rate base and numerous expenses, as well as the methodologies by which the Company arrived at certain of the amounts requested. The Consumer Advocate's witnesses, after extensive discovery and analysis recommended a decrease in rates of approximately \$3 million.

7. The Parties have undertaken extensive discussions and "give and take" negotiations to resolve all known disputed issues in this case. As a result of the information obtained during discovery and the discussions between the Parties, and for the purpose of avoiding further litigation and resolving this proceeding upon acceptable terms, the Parties have

reached this Settlement Agreement.

In furtherance of this Settlement Agreement, the Parties have agreed to the settlement terms set forth below.

SETTLEMENT

8. Based upon the exchange of information and discussions described above, and in order to resolve this case through settlement and avoid the need for further litigation and expenses for all Parties, the Parties have agreed, subject to Authority approval, to certain adjustments and amendments to the Company's Petition, which are discussed herein.

9. **Attrition Period:** The Parties agree that the appropriate attrition period for use in the Rate Case part of this proceeding is the 12 months ended May 31, 2016.

10. **Revenue Deficiency:** The adjustments and amendments to the Company's requests filed in the Rate Case part of the Petition collectively reduce the Company's attrition period revenue deficiency from \$5.89 million (a proposed revenue increase of 3.9%) to \$0.71 million (an increase of 0.5%). The Parties agree that, subject to Authority approval, this revenue deficiency is reasonable and appropriate with respect to the Rate Case.

11. **Revenue Requirement:** The Parties agree, with respect to the Rate Case, that the Company's attrition period cost of service should include the components set forth on Attachment A hereto, which the Parties agree are fair and reasonable to the Company and its customers and which include the following:

- a. Required operating income of \$19,167,175;
- b. A rate base of \$247,923,553;
- c. An overall rate of return of 7.73% on rate base;
- d. A return on common equity of 9.80%;
- e. A capital structure consisting of 5.01% short-term debt, 41.86% long-term debt, and 53.13% equity;

- f. A cost of short-term debt of 1.07%;
- g. A cost of long term debt of 5.90%; and
- h. An attrition period revenue deficiency of \$711,472.

12. **Rates:** The Parties agree that, with respect to the Rate Case, the rates reflected in Attachment A and tariffs reflected in Attachment B are fair and reasonable and appropriate for the limited purpose of resolving this proceeding. The Parties further agree that, subject to TRA approval, the Rate Case rates set forth on Attachment B shall be effective on bills rendered on and after June 1, 2015.

13. **Annual Review Mechanism and Ratemaking Methodologies:** The Parties agree (I) that the Company may opt into an annual review of its rates pursuant to Tenn. Code Ann. § 65-5-103(d)(6); (II) that the terms and conditions of the amended ARM tariff (which is attached hereto as Attachment C and referred to herein as the "ARM Tariff") are fair and reasonable and appropriate for the limited purpose of resolving this proceeding; and (III) as follows:

a. **Annual ARM Filing and Forward Looking Rate Adjustment**

- (i) The Company shall make an ~~a~~Annual Reconciliation ~~Revenue~~ Requirement filing on or before January 15th ~~February 1~~ of each year ("Annual ARM Filing") under Tenn. Code Ann. § 65-5-103(d)(6)(A) and (C).
- (ii) Certain required procedures, definitions, filings, and time frames relevant to the Annual ARM Filing are stated in the ARM Tariff.
- (iii) The Company shall provide, with each year's Annual ARM Filing, each and every document, spreadsheet, workpaper, and exhibits and attachments that are listed or described on Attachment E. Nothing herein shall limit the ~~TRA~~TPUC staff or Consumer Advocate from

requesting additional data and/or documents after each Annual ARM Filing, and the Company shall provide any such additional requested data and/or document within 10 business days of such request.

- (iv) All of the items listed or described on Attachment E shall be provided at the time that the Company makes the Annual ARM Filing. The Company will not make its first Annual ARM Filing prior to February 1, 2016.
- (v) Each Annual ARM Filing shall present financial data and ratemaking calculations for a Historic Base Period ~~and Forward Looking Test Year~~ as defined and calculated in the ARM Tariff and shall calculate a revenue sufficiency or deficiency based upon the Historic Base Period results, modified pursuant to the terms of this Settlement Agreement and ARM Tariff. ~~for the Forward Looking Test Year.~~
- (vi) In each Annual ARM Filing, the Company shall utilize the Approved Methodologies, as defined below.
- (vii) Any rate adjustment resulting from an Annual ARM Filing, after review, consideration, and adjustment of the tariff rates requested by such Annual ARM Filing by TPUC ~~the Authority~~ under Tenn. Code Ann. § 65-5-103(d)(6)(C), shall be effective on bills rendered on and after June 1.
- (viii) The resulting revenue sufficiency or deficiency ~~for the Forward Looking Test Year~~ shall be applied to all rate classes, excluding existing TPUCRA approved Special Contracts (as defined in and set out on Attachment G to this Settlement Agreement).

~~(ix) — The Parties further agree to an annual reconciliation of actual results to the Authorized Return on Equity, as more fully described as an Annual Reconciliation below.~~

b. **Representations and Warranties Made With Annual ARM Filing** With each Annual ARM Filing, a Company officer shall, as of the date of each Annual ARM Filing, affirmatively represent and warrant, upon information and belief formed after reasonable inquiry, by signing a certificate ("Certificate") under oath:

- (i) That the Company's Annual ARM Filing has been prepared in accordance with the Approved Methodologies, or that any deviation from or the resolution of any ambiguities in the Approved Methodologies has been affirmatively disclosed and explained in a document attached to such affidavit;
- (ii) That all New Matters (as defined below) have been affirmatively disclosed and explained in a document attached to such affidavit;
- (iii) That the Variance Report (as defined below) includes all matters that are required by this Settlement Agreement and any related ~~TPUC Authority~~ order to be disclosed in the Variance Report;
- (iv) That no Disallowed Items (as identified and described in Attachment H to this Settlement Agreement) have been included in the Company's Annual ARM Filing;
- (v) That, except as expressly disclosed in a separate schedule dedicated to such disclosure attached to the Certificate, there have been no additions, deletions, or modifications to the accounts or subaccounts

used by the Company to account for operating revenues and expenses on the Effective Date (as defined below) of this Settlement Agreement and as such accounts or subaccounts have been provided to ~~TPUCthe Authority~~ and Consumer Advocate in the form of discovery and data requests in this ~~TPUCRA~~ Docket 14- 00146, with such accounts forming the basis for the calculations and review performed in connection with and that resulted in this Settlement Agreement;

(vi) That there has been no change in the method of accounting or estimation in any account or subaccount referenced and described in the immediately preceding subsection (v) since the Effective Date of this Settlement Agreement;

~~(vi)~~(vii) That the Annual Budget associated with Tennessee jurisdictional operations shall be provided and that such budget is verified to be consistent with a component of the Atmos corporate budget that is the basis for the publicly available earnings ‘guidance’ provided annually to investors and the public generally. The Annual Budget submitted with the ARM filing to be made on or before January 15th shall include the period beginning with the previous October 1st and ending September 30th, the fiscal period of the Company.

c. Allocation of Rate Change, If Any, After Annual ARM Filing, Among Customer Classes and Rate Components

(i) The Annual Reconciliation Revenue Requirement ~~Forward Looking~~

~~Test Year~~ sufficiency or deficiency shall be distributed among the rate classes proportionate to the current margin of each class, proportionate to the current base and volumetric components within each class and otherwise consistent with the distribution methodology as reflected on Schedule 1 1-3 of this Settlement Agreement.

- (ii) Existing Special Contracts are unaffected and will not see a change in rates.

d. **Special Contracts:** The Company will notify ~~TPUC~~~~the Authority~~ and Consumer Advocate at least 120 days prior to any termination, renewal, or other rate related change to any existing Special Contract and seek ~~TPUC~~~~Authority~~ approval for any such change. The Consumer Advocate may seek intervention in any such docket and Atmos Energy agrees not to object to the Consumer Advocate's intervention.

e. **Definitions**

- (i) **Annual Filing Date** shall be the date the Company will make its Annual ARM Filing. The Annual Filing Date shall be no later than ~~January 15th~~ ~~February 1~~ of each year.

- (ii) **Historic Base Period** is defined as the twelve month period ending September 30 of each year prior to each Annual Filing Date.

- ~~(iii)~~ ~~Forward Looking Test Year~~ is defined as the twelve months beginning June 1 of each calendar year.

- ~~(iv)~~~~(iii)~~ **New Matters** refers to any issue, adjustment, and/or ambiguity in or for any account, method of accounting or estimation, or

ratemaking topic that would directly or indirectly affect the Annual ARM Filing for which there is no explicit prior determination in this Docket 14-00146 by ~~TPUC~~~~the Authority~~ regarding the Company. The definition of "New Matters" includes, without limitation, any matter or item specifically described or set forth as a New Matter in this Settlement Agreement.

- f. **Authorized Return on Equity:** The Parties stipulate and agree to an Authorized Return on Equity of 9.80% for the Rate Case portion of this Docket, which shall therefore be used in calculating the revenue sufficiency or deficiency under the ARM Tariff.
- g. **Methodologies for Calculation of Annual Reconciliation Revenue Requirement and Resulting Sufficiency ~~or Deficiency for each Forward Looking Test Year~~.** The revenue requirement and resulting sufficiency or deficiency shall be calculated using the ratemaking methodologies explicitly defined and set out in this Settlement Agreement ("Approved Methodologies").
 - (i) **Billing Determinants and Revenue at Present Rates**
 - A. **Historic Base Period Forward Looking Test Year Billing Determinants** – In calculating the Historic Base Period Settlement Forward Looking Test Year Billing Determinants, the Company shall begin with Historic Base Period sales and transportation volumes, bills and billing demand units. The Company shall then adjust the billing determinants for normal weather, annualized customer usage and customer

growth to arrive at the Weather Normalized Forward Looking Test Year Billing Determinants. The weather adjustment shall be calculated using the weather data from the Bristol, Knoxville, Nashville and Paducah weather stations to normalize sales data, and the Company shall use the daily normal weather for the 30-year period ending at the end of each Historic Base Period. ~~For industrial and transportation customers the Company shall analyze the sales volumes of the Company's largest customers and adjust volumes accordingly based on any known and measurable changes expected for each Forward Looking Test Year. For residential and commercial customers the Company shall use a two year average, with the last year being the Historic Base Period, to calculate customer growth adjustments. The customer change shall then be multiplied by annualized normal usage per customer to arrive at the adjustment to volumes consistent with the applicable tariffs, rules and regulations.~~

~~B. Forward Looking Test Year Revenues — Forward Looking Test Year Revenues shall be calculated by multiplying the Forward Looking Test Year Billing Determinants by the rates effective at the end of the Historic Base Period consistent with Schedule 11-2 to this Settlement Agreement.~~

C.B. Weather Normalization – The weather adjustment shall be calculated using the weather data from the Bristol,

Nashville, Knoxville (TN) and Paducah (KY) NOAA weather stations to normalize actual usage for all customers served under Rate Schedule (210), (211), (220), (221) and (225), as well as the commercial sales customers under Rate Schedule (230). From this data a 30-year daily normal ending at the conclusion of the Historic Base Period shall be calculated. Monthly normal cycle degree days shall be calculated from the 16th of the previous month to the 15th of the current month to approximate cycle-billing. Weather normalization months shall be the periods from October through April. Normalized HDDs by weather station for the Historic Base Period ending June 30, 2014 are attached as Attachment D to this Settlement Agreement. Beginning with the Company's initial Annual ARM Filing on February 1, 2016, the normalized HDDs will be presented as of the end of each Historic Base Period ending September 30th of each year. Weather normalization shall continue to be subject to annual TPUCRA audit and the Consumer Advocate shall have the right to intervene in any docket related to the audit. Atmos Energy agrees not to object to any such intervention by the Consumer Advocate.

D.C. Other Revenues – The Company shall calculate Other Revenues, consisting primarily of forfeited discounts and miscellaneous service charges, by calculating a two year

average of these amounts up to the end of each Historic Base Period.

E.D. Cost of Gas - The Company shall calculate Cost of Gas by using the Historic Base Period per books cost of gas adjusted to remove rent for Intercompany Leased Storage Property to arrive at the adjusted Historic Base Period
Forward Looking Test Year Cost of Gas.

- h. **Operations and Maintenance Expense ("O&M").** Total O&M excluding Cost of Gas and Pension and Other Post Employment Benefit Expense shall be comprised of expenses incurred directly in the Company's Tennessee operations and expenses allocated from the three rate divisions that allocate expenses to Tennessee (Division 091, the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012, Shared Services Customer Service). The forecast for O&M shall be developed independently for each of the four rate divisions using the forecast methodologies defined below. For divisions 091, 002 and 012, the amount of expense shall be allocated to the Tennessee operation as described in the Company's Cost Allocation Manual (CAM).

- (i) — Labor — Labor expense shall be equal to the Company's most recently completed and approved budget for the months of the Forward Looking Test Year for which the budget is available. Labor expense shall be forecasted using an inflation factor to adjust the months of the Forward Looking Test Year that extend beyond the Company's most recently completed budget. The

~~inflation factor shall be the Company's budgeted average target common merit increase from its most recently completed budget. The development of the O&M forecast shall be consistent for each entity that allocates costs to Tennessee. For divisions 091, 002 and 012, the appropriate amount of expense shall be allocated to the Tennessee operation as described in the Company's Cost Allocation Manual (CAM).~~

~~(ii)(i)~~ **O&M Non-Labor** (excluding rent, FAS 87 accrual, disallowances and bad debt expenses) -- ~~Non-labor~~ O&M expense types other than otherwise noted above and below shall be equal to the Company's costs recorded pursuant to Generally Accepted Accounting Principles and consistent with the provisions outlined in the Federal Energy Regulatory Commission's Uniform System of Accounts for natural gas Utilities. ~~most recently completed budget for the months of the Forward Looking Test Year for which the budget is available. Non-labor expense types other than otherwise noted below are forecasted using a standard inflation factor to adjust the months of the Forward Looking Test Year that extend beyond the Company's most recently completed budget. The inflation factor used is the average inflation rate for the southern region over the previous two years as reported by the U.S. Department of Labor. The development of the O&M forecast shall be consistent for each entity that allocates costs to Tennessee. For divisions 091, 002 and 012, the appropriate amount of expense shall be~~

allocated to the Tennessee operation as described in the Company's Cost Allocation Manual (CAM).

~~(iii)(ii)~~ **Rent** – ~~The Company shall use a 0% inflation factor for lease payments (subaccounts 05481 and 05480). For the Forward Looking Test Year ending May 31, 2016 used in this Docket,~~ The Company shall include in its O&M forecast the adjustments documented and described in the response to CAPD DR 1-58 (removal of the Franklin building from the plant additions forecast and addition of lease payments previously removed) (attached as Attachment I).

~~(iv)(iii)~~ **FAS 87 accrual** – The Company shall remove from O&M any amounts related to FAS 87 expenses (subaccount 01202, and any amount in any successor or replacement account or subaccount containing FAS 87 expenses). In years that the Company makes actual cash contributions to its pension fund, it shall be allowed to recover those cash contributions ~~as part of the annual reconciliation process described below.~~ The amount of cash contribution allocable to and recoverable from Tennessee shall be consistent with the methodology represented in WP 4-4 of this Settlement Agreement and be based on the amount of future liability allocable to Tennessee as defined by the Company's actuary. The allocation methodology described is consistent with that used in Docket Nos. 08-00197 and 12-00064.

(v) **Disallowances** – The Company shall remove from O&M amounts related to incentive compensation, spousal and dependent travel,

and non-deductible dues. Specifically, the Company shall remove allocated net expense amounts for incentive compensation, spousal and dependent travel, and non-deductible dues charged to budgeted in the following subaccounts: 07452, 07458, 07460, 07463, 07454, 07450, 05416, and 05412, as well as any subaccount that in form or substance could constitute a successor or replacement for such subaccount.

~~(vi) Bad Debt Expense The Company shall calculate and include in O&M 0.5% of expected residential, commercial and public authority gross margins as calculated on WP 4-3 of this Settlement Agreement.~~

~~(vii)(vi) Rate Case Expense Regulatory and Legal Cost Rate – The Company shall include an annual amount of \$175,000 in the Forward Looking Test Year O&M to account for a 3 year amortization of the estimated rate case expenses for this Docket. Upon completion of this Docket, the Company shall defer accumulated rate case expenses and begin amortizing the actual balance at \$14,583.33 per month until the actual balance is fully amortized. In the Forward Looking Test Year following the full amortization of the rate case expense balance, the Company shall cease to include in O&M an adjustment for rate case expense. The Company shall include in its normal operating budget an estimated amount for legal expenses as it would any other O&M expense.~~

Legal expenses associated with prosecuting the Company's Annual ARM Filing are expected to be annually recurring and significantly

lower than the level required to prosecute a traditional rate case. The annual expense incurred for such regulatory and legal expenses shall be charged to O&M expenses as incurred, subject to the annual reconciliation described below just like any other O&M expense.

~~(viii)~~(vii) **Other** - An adjustment for intercompany leased property shall be included consistent with the data and calculations on WP 3-1 attached to this Settlement Agreement and all previous rate filings made by the Company since 1989.

i. Taxes, Other than Income Taxes

- (i) Total Taxes, Other than Income Taxes shall be comprised of taxes incurred directly in the Company's Tennessee operations and taxes allocated from the three rate divisions that allocate expenses to Tennessee (Division 091, the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012, Shared Services Customer Service). The forecast for Taxes, Other than Income Taxes shall be developed independently for each of the four rate divisions. For divisions 091, 002 and 012, the appropriate amount of taxes shall be allocated to the Tennessee operation as described in the Company's Cost Allocation Manual (CAM). The forecast for Taxes, Other Than Income Taxes shall be comprised of the Company's most recently completed budget for each type of tax with the following two exceptions:
- A. Payroll taxes (FICA, FUTA, SUTA) shall be inflated at the same rate as labor O&M for months in the Forward

~~Looking Test Year that extend beyond the most recently completed budget; and~~

~~B. The monthly accrual for ad valorem taxes shall be the Company's most recent monthly accrual for estimated ad valorem taxes due.~~

- (ii) An adjustment for intercompany leased property shall be included consistent with the data and calculations on WP 3-1 attached to this Settlement Agreement and all previous rate filings made by the Company since 1989.

j. **Depreciation and Amortization Expense**

~~(i) Depreciation and Amortization Expense for each Forward Looking Test Year shall be calculated within the Company's plant forecast described below. Depreciation expense shall be calculated by multiplying the approved rate for each account by the projected account balance for each month. The depreciation rates used to calculate depreciation expense are those most recently approved by the Authority for Tennessee and each of the entities allocable to Tennessee. Depreciation expense allocable to Tennessee shall be done in accordance with the Company's Cost Allocation Manual (CAM).~~

~~(ii) For the attrition years ending May 31, 2016 and May 31, 2017, the Company shall include in Amortization Expense \$649,245 each year to account for a 2-year amortization of the regulatory asset related to FAS 87 which it was authorized to establish in the Order from Docket No. 12-00064. The regulatory asset will be fully amortized~~

on May 31, 2017.

~~(iii)~~(i) Prudent rate making and accounting requires that depreciation rates be updated periodically. The Company's practice is to conduct depreciation studies and update rates in its various operating divisions and entities housing shared assets (including the Kentucky Mid-States General Office and SSU) every 4-6 years. The Company does plan to conduct depreciation studies in the future consistent with this practice and prudent accounting and rate making procedures. In the event it conducts a depreciation study for its Tennessee operations or any of the entities that house shared assets that support Tennessee operations, the Company shall, within 30 days of completing the study, file the depreciation study with the TPUCRA, and provide a copy to the Consumer Advocate, and ask that the rates contained in the study be approved for its next annual review. Following any appropriate discovery and rebuttal, and conditioned upon approval by the TPUCRA of new rates, the Company shall calculate depreciation expense using the newly approved rates in its subsequent Annual ARM Filing. To assist with review, the Company shall file any new depreciation study when it is completed, rather than waiting until it makes the next Annual ARM Filing.

~~(iv)~~(ii) An adjustment for intercompany leased property shall be included consistent with the data and calculations on WP 3-1 attached to this Settlement Agreement and all previous rate filings made by the Company since 1989.

k. **Rate Base** The rate base shall include ~~projected~~ thirteen month ~~balances~~~~averages~~ for each of the following components. Each component shall be ~~quantified~~~~forecasted~~ consistent with the methodologies described in each section below:

(i) **Original Cost of Plant** — ~~Shall include the amounts properly charged to Tennessee (Division 091) as well as amounts properly allocated to the Tennessee jurisdiction from the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012. The forecast of monthly gross plant balances shall begin with the actual plant balances at the end of the Historic Base Period. Plant additions for the period between the end of the Historic Base Period and end of the Forward Looking Test Year are made up of projected and budgeted plant additions from the Company's monthly projections and most recently completed capital budget. Plant additions are comprised of three components:~~

~~A. — the capital spending for Tennessee;~~

~~B. — the amount allocated to Tennessee resulting from capital spending by the KY/Mid-States Division's general office; and~~

~~C. — the amount allocated to Tennessee resulting from capital spending by the Company's Shared Services (SSU) during the Forward Looking Test Year.~~

Two components of SSU that house shared plant assets, the Charles K. Vaughan Center (CKV) and Greenville data center, shall use allocation percentages that recognize the unique nature and use

of those assets and that are consistent with the Company's workpapers. ~~The capital forecast shall be converted to plant account ("300 account") detail for the purpose of projecting additions, retirements, depreciation expense, accumulated depreciation and resulting net plant at the required level of detail. Projected plant retirements shall be based on the level of retirements recorded during each Historic Base Period. For the initial Forward Looking Test Year ending May 31, 2016, the Company shall include in its rate base forecast the adjustments documented and described in the response to CAPD DR 1-58 (removal of the Franklin building from the plant additions forecast and addition of lease payments previously removed), attached as Attachment I.~~

- (ii) **Accumulated Depreciation and Amortization** – Shall include the amounts properly charged to Tennessee (Division 091) as well as amounts properly allocated to the Tennessee jurisdiction from the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012. ~~Accumulated depreciation and amortization for each Forward Looking Test Year shall be forecast within the Company's plant projection described in the preceding section and shall incorporate the most recently approved depreciation rates. The forecast shall begin with actual per books accumulated depreciation balances at the end of the Historic Base Period. For each month between the end of each Historic Base Period and the end of each Forward Looking Test Year, the forecast shall add projected depreciation expense and~~

~~deduct the same retirements that were projected for gross plant. Depreciation expense shall be calculated by multiplying the approved rate for each account by the projected account balance for each month.~~

- (iii) **Construction Work in Progress ("CWIP").** ~~— The balance of CWIP at the end of each Historic Base Period shall be projected to remain constant through the end of each Forward Looking Test Year as capital spending is offset by completing projects and placing assets in service.~~
- (iv) **Storage Gas Investment** - Forward Looking Test Year storage gas balances shall be based on actual balances through the end of each Historic Base Period and forecasted storage usage with future injections priced at NYMEX futures prices.
- (v) **Cash Working Capital** - The Company conducted a new lead-lag study for this Docket in order to calculate cash working capital requirements. Rather than conduct a new lead-lag study with each Annual ARM Filing, the Company shall apply the lead-lag factors from this study into the subsequent ARM filings. ~~annual Forward Looking Test Year cost of service items and revenues in order to calculate cash working capital requirements each Forward Looking Test Year.~~
- (vi) **Materials and Supplies** ~~— The balance of materials and supplies at the end of each Historic Base Period shall be projected to remain constant through the end of each Forward Looking Test Year.~~

- (vii) **Regulatory Assets** - Attachment F lists the regulatory assets that are recognized for the Company. Attachment F shall include the Deferred Pension Regulatory Asset that is more particularly described below.

~~(viii) **Deferred Pension Regulatory Asset Balance** - The Company shall include in rate base the average unamortized portion of the regulatory asset related to FAS 87 which it was authorized to establish in the Final Order from Docket No. 12-00064. The regulatory asset will be fully amortized on May 31, 2017. No further regulatory asset for FAS 87 shall be established unless so established by the TRA, and until the TRA adopts new ratemaking methodologies thereto.~~

~~(ix)(viii)~~ **Accumulated Deferred Income Tax (ADIT)** - Shall include the amounts properly charged to Tennessee (Division 091) as well as amounts properly allocated to the Tennessee jurisdiction from the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012. Accumulated Deferred Income Taxes ("ADIT") shall be forecasted consistent with this Settlement Agreement and shall be based on forecasted plant additions and currently enacted tax law. The forecast of monthly ADIT balances shall begin with the actual ADIT balances at the end of the Historic Base Period. The forecast of book plant additions and book depreciation for the period between the end of the Historic Base Period and end of the Forward Looking Test Year

~~shall be consistent with the amounts described above in (k)(i) and (k)(ii). To arrive at tax plant additions, the tax repairs basis adjustment shall be estimated based on the type of projected book plant additions and prior period deductible percentages. In periods for which bonus depreciation has been enacted, the bonus depreciation basis adjustment shall be estimated based on the type of projected book plant additions, using the last known bonus depreciation percentages, by rate division. Projected tax plant additions shall be used to compute tax projected depreciation in accordance with the current MACRS rates. The difference between projected book plant additions and projected tax plant additions results in projected fixed asset cost ADIT. The difference between projected book accumulated depreciation and projected tax accumulated depreciation results in projected fixed asset accumulated ADIT. All other ADIT balances shall be held constant from the end of the Historic Base Period; only fixed asset cost and accumulated ADIT are projected. ADIT balances for Tennessee and each rate division allocable to Tennessee shall include both liability and asset balances including NOLCs. ADIT shall include a ratemaking adjustment consistent with the Company's pre-filed testimony to remove non-utility related ADIT associated with any consolidated tax net operating loss.~~

- (x) **Customer Advances for Construction.** ~~The balance of customer advances for construction at the end of each Historic Base Period shall be projected to remain constant through the~~

~~end of each Forward Looking Test Year.~~

- (xi) **Customer Deposits** – Customer deposits shall be projected to increase 0.35% annually from the ending balance in each Historic Base Period.
- (xii) **Accumulated Interest on Customer Deposits** ~~—Accumulated interest on customer deposits shall be projected to increase 0.35% annually from the ending balance in each Historic Base Period.~~
- (xiii) **Operating Reserves** – Operating Reserves shall not be included as a component of rate base.
- (xiv) **Net Elimination of Intercompany Leased Property** – An adjustment for intercompany leased property shall be included consistent with the data and calculations on WP 3-1 and all previous rate filings made by the Company since 1989.

1. **Rate of Return**

- (i) **Capital Structure** - The Company's capital structure shall be calculated annually and be made up of:
 - A. Actual equity balance at the end of each Historic Base Period
 - B. Actual long term debt ("LTD") balance at the end of each Historic Base Period
 - C. Twelve-month average short term debt ("STD") balance for the 12 months that comprise each Historic Base Period
- (ii) **Cost of Debt** - Cost of Long Term Debt shall be calculated annually as it is calculated on WP 9-3 of this Settlement Agreement. Cost of Short Term Debt shall be calculated annually as it is calculated on

WP 9-2 of this Settlement Agreement.

- (iii) **Return on Equity** – The Authorized Return on Equity shall be 9.80% until a different return on equity is adopted by the [Authority TPUC](#) in a subsequent general rate case.

m. **Other Methodologies Adopted** -- To the extent that ratemaking methodologies are not described in this Settlement Agreement and are not inconsistent with any methodology described in this Settlement Agreement, the methodologies used in the Company's revenue requirement model and supporting workpapers and relied-upon files in this Docket No. 14-00146 may be utilized in calculating and evaluating the Company's annual revenue requirement and resulting sufficiency or deficiency; provided, however, that to the extent that any such methodology is or could be interpreted as ambiguous or contradictory, no methodology shall be inferred with respect to the item or process that is ambiguous or contradictory.

14. **Annual Reconciliation of Actual Results to Authorized Return on Equity**

- a. On or before January 15th of each year, the Company shall file with the Commission, and shall provide a copy to the Consumer Advocate, a reconciliation of actual results ("Annual Reconciliation") to the Authorized Return on Equity. The Annual Reconciliation shall include a calculation of the actual cost of service, determined in accordance with the Approved Methodologies; using the same revenue requirement model used within previous ARM filings.
- b. The Actual cost of service shall be compared with actual booked revenue, to determine the revenue requirement deficiency or excess ("Annual

Reconciliation Revenue Requirement”).

- c. Interest shall accrue on the “Annual Reconciliation Revenue Requirement” (whether positive or negative) as described in the Definition Section through the period at which new rates would become effective.
- d. New rates shall be calculated to produce revenue designed to recover the actual cost of service including the deficiency or excess resulting from the Annual Reconciliation calculation. The reconciliation amount approved in Docket No. 18-00097 filed on August 31, 2018 shall be deferred until the resolution of the initial Annual Reconciliation True-Up at which time the reconciliation amount, including a return, shall be added to or subtracted from the resulting Annual Reconciliation Revenue Requirement.
- e. The Annual Reconciliation rates shall be effective on bills rendered on and after June 1 of each year, or a date approved by TPUC. All tariff rates (except Special Contract rates, which shall not be effective) shall be adjusted in proportion to the relative base revenue share of each class as specified in the Approved Methodologies.
- ~~a. On or before September 1 of each year, the Company shall file with the Authority, and shall provide a copy to the Consumer Advocate, a reconciliation of actual results (“Annual Reconciliation”) to the Authorized Return on Equity for the Forward Looking Test Year immediately completed.~~
- ~~b. The annual reconciliation shall include a calculation of actual cost of service, determined in accordance with the Approved Methodologies, for the Forward Looking Test Year immediately completed; using the same~~

~~revenue requirement model used in each Annual ARM Filing, substituting actual results in place of previously forecasted data for all aspects of cost of service, excluding revenue calculations. Actual cost of service shall be compared with actual booked revenue, ignoring the revenue impact of any prior year reconciliation, to determine the revenue requirement ("Annual Reconciliation Revenue Requirement") necessary to adjust the actual return on equity to the Authorized Return on Equity for the Forward Looking Test Year immediately completed, all determined in accordance with the Approved Methodologies. The calculation of the Annual Reconciliation Revenue Requirement shall be consistent with Schedule 12 of the ARM Tariff (Attachment C). Interest will be added to the Annual Revenue Reconciliation Revenue Requirement (whether positive or negative). The interest rate shall be the Overall Cost of Capital as stated on Schedule 9 of the Annual ARM Filing Compounded for 2 years.~~

~~c. — New rates shall be calculated to produce a net rate adjustment comprised of the Annual Reconciliation Revenue Requirement from the most recently completed Forward Looking Test Year and the revenue sufficiency/deficiency for the ensuing Forward Looking Test Year, all determined in accordance with the methodologies set forth herein and as approved and adopted by the Authority.~~

~~d. — The resulting rates shall be effective on bills rendered on and after June 1 of each year. All tariff rates (except Special Contract rates, which shall not be affected) shall be adjusted in proportion to the relative base revenue share of each class as described above.~~

~~e. — The first Annual Reconciliation Revenue Requirement filing shall occur on September 1, 2016, and shall cover the Forward Looking Test Year ended May 31, 2016. The resulting Annual Reconciliation Revenue Requirement shall be incorporated into the Company's February 1, 2017 Annual ARM Filing.~~

15. **Variance Report and ARM Review** -- As part of its Annual ARM Filing, Atmos Energy shall prepare and file with the TPUCRA, with a copy to the Consumer Advocate, a Variance Report ("Variance Report") that identifies and explains each and every Atmos Energy operating revenue and expense account and/or subaccount for which the Tennessee amount (including amounts allocated to Tennessee) either:

- a. exceeds the prior year's amount (based on amounts either as filed by Atmos Energy in the Annual ARM Filing or as adjusted by the TPUCRA under Tenn. Code Ann. § 65-5-103(d)(6)(C)) by 5% and \$30,000; or
- b. exceeds the amount (based on amounts either as filed by Atmos Energy in the Annual ARM Filing or as adjusted by the TPUCRA under Tenn. Code Ann. § 65-5-103(d)(6)(C)) in such account and/or subaccount in the third preceding year by 10% and \$60,000; or
- c. has been, when compared with the accounts and/or subaccounts existing on the Effective Date of this Settlement Agreement and/or used in the calculations referenced herein, added or deleted or modified in form or substance in any way.

As to any account and/or subaccount (and including without limitation any process related directly or indirectly to any such account or subaccount) included on a Variance Report, the TPUCRA and/ or Consumer Advocate shall have the right in its discretion to request additional information

and an explanation from Atmos Energy. Atmos Energy agrees to provide any such information or explanation requested within ten business days of such request. The Consumer Advocate, further, has the right in its discretion to bring such account and/or subaccount (or related process) to the attention of ~~the Authority~~TPUC and to request ~~the Authority~~TPUC to review and consider such account and/or subaccount (or related process). Without limiting the ~~Authority~~TPUC's discretion, the Consumer Advocate may recommend any form or process of review it deems appropriate, including without limitation a review that would include the appointment of a third party to review and report on the account and/or subaccount (or related process).

16. ~~Consumer Advocate's~~APD **Authority to Petition** -- The ~~Consumer Advocate~~APD shall have the right in its sole discretion to file a petition or complaint asking the TRA to terminate or modify any ARM Tariff resulting from this Docket or any directly or indirectly related docket or to take any other action contemplated by Tenn. Code Ann. § 65-5-103(d)(6). Atmos Energy agrees not to oppose the ~~Consumer Advocate~~APD's petition or complaint filed under this Section on the grounds that such a proceeding is not statutorily authorized or that ~~Consumer Advocate~~APD is not authorized to bring such a proceeding; provided, however, that Atmos Energy reserves all rights with regard to the merits of any termination or modification or other relief that the ~~Consumer Advocate~~APD may request or position that the ~~Consumer Advocate~~APD may assert in any such proceeding.

17. The Parties agree that the terms of this Settlement Agreement are fair and reasonable to all customer classes and will provide Atmos Energy with a reasonable opportunity to recover the agreed upon operating revenue requirement and a reasonable rate of return on investment.

18. The Parties agree to support this Settlement Agreement before the Authority and in any hearing, proposed order, or brief conducted or filed in this proceeding.

19. The Parties acknowledge that Atmos Energy brought this matter, *inter alia*, to

determine rates in a general rate case and to establish adopted ratemaking methodologies sufficient to enable implementation of the annual review mechanism established by Tenn. Code Ann. § 65-5-103(d)(6). The Parties jointly request that the Authority adopt the ratemaking methodologies set forth in this Settlement Agreement for the limited purpose of implementing an annual review mechanism under Tenn. Code Ann. § 65-5-103(d)(6) under this Docket, and approve the annual review mechanism and ARM Tariff consistent with the terms and requirements established by this Settlement Agreement. The methodologies adopted by the Authority as a result of the above request shall be utilized in preparing and evaluating each Annual ARM Filing and Annual Reconciliation filing contemplated under this Docket.

20. None of the Parties waives its right to take other positions with respect to matters similar to those settled herein in future proceedings before the Authority.

21. The resolution of issues reflected herein is the result of give and take negotiations between the Parties and does not necessarily reflect the position of any single Party on any discrete issue, and no Party waives the right to assert any position in any future proceeding.

22. Except to the limited extent necessary to allow the Authority to implement an annual review mechanism under Tenn. Code Ann. § 65-5-103(d)(6) in this Docket (and, for the avoidance of doubt, only in this Docket 14-00146), the Parties acknowledge and agree as follows:

- a. This Settlement Agreement shall not have any precedential effect in any other proceeding or be binding upon any of the Parties in this or any other jurisdiction;
- b. None of the signatories hereto shall be deemed to have acquiesced in any ratemaking or procedural principle, including without limitation, any cost of service determination or cost allocation or revenue related methodology,
- c. No provision of this Settlement Agreement shall be deemed an admission

of any Party.

23. The Parties agree that all pre-filed testimony and exhibits and attachments of the Parties (including pre-filed supplemental testimony and exhibits and attachments supporting this Settlement Agreement) will be admitted into evidence without objection and become part of the public record and the Parties hereby waive their right to cross-examine all witnesses with respect to such pre-filed testimony and exhibits and attachments; provided, however, that should questions be asked of such witnesses by any person at the hearing of this matter (including any questions by Directors), the Parties may cross-examine any witness with respect to such questions consistent with the agreement set forth in this Settlement Agreement. As to the Supplemental Testimony that is the subject of the Consumer Advocate's Motion for Leave to File Supplemental Testimony filed on April 21, 2015, and any rebuttal thereto, the parties shall abide by the hearing officer's decision. Public comment regarding the Settlement Agreement will also be welcome and encouraged by the Parties.

24. The terms of the Settlement Agreement have resulted from extensive negotiations between the signatories and the terms hereof are interdependent. The provisions of this Settlement Agreement are agreements reached in compromise and settlement and solely for the purpose of resolving this Docket without the need for further litigation.

25. The provisions of this Settlement Agreement are not severable.

26. The Parties jointly recommend that the Authority issue an order adopting this Settlement Agreement in its entirety without modification.

27. If the Authority does not approve the settlement in its entirety, the Parties are not bound by any position or term set forth in this Settlement Agreement, except for this Section. In the event that the Authority does not approve this Settlement Agreement in its entirety, each of the signatories to this Settlement Agreement will retain the right to terminate this Settlement

Agreement and/or to seek additional time to consider or review any proposed modifications. By agreeing to this Settlement Agreement, no Party waives any right to continue litigating this matter should the Settlement Agreement be rejected or modified, in whole or in part, by the Authority.

28. The Parties agree that this Settlement Agreement constitutes the complete understanding among the Parties concerning the resolution of issues and matters under this TRA Docket 14-00146, and any oral statements, representations or agreement concerning such issues and matters made prior to the execution of this Settlement Agreement have been merged into this Settlement Agreement.

29. The Consumer Advocate's agreement to this Settlement Agreement is expressly premised upon the truthfulness, accuracy and completeness of the information provided by the Company to the Consumer Advocate throughout the course of this Docket, which information was relied upon by the Consumer Advocate in negotiating and agreeing to the terms and conditions of this Settlement Agreement.

30. The acceptance of this Settlement Agreement by the Attorney General shall not be deemed approval by the Attorney General of any of the Company's practices.

31. Each signatory to this Settlement Agreement represents and warrants that it/he/she has informed, advised and otherwise consulted with the Party for whom it/he/she signs regarding the contents and significance of this Settlement Agreement and has obtained authority to sign on behalf of such Party, and based upon those communications, each signatory represents and warrants that it/he/she is authorized to execute this Settlement Agreement on behalf of its/his/her respecting Party.

32. This Settlement Agreement shall be governed by and construed under the laws of the State of Tennessee. Nothing herein limits or alters the Sovereign Immunity of the State of

Tennessee or any of its entities or subdivisions.

33. The Parties agree that this Settlement Agreement may be executed in multiple counterparts and by copies provided by facsimile or in .pdf format.

34. The date set forth immediately following shall be the "Effective Date" for purposes of this Settlement Agreement.

The foregoing is agreed and stipulated to this 29th day April, 2015.

STIPULATION AND SETTLEMENT AGREEMENT
IN TRA DOCKET 14-00146
SIGNATURE PAGE

ATMOS ENERGY CORPORATION

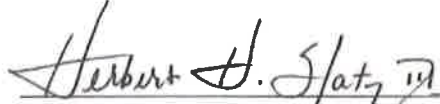



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Dated: April **J**.2015

**STIPULATION AND SETTLEMENT
AGREEMENT IN TRA DOCKET 14-00146
SIGNATURE PAGE**

**CONSUMER ADVOCATE AND
PROTECTION DIVISION**


Herbert H. Slatery III, #09077
Attorney General and Reporter


Wayne M. Irvin, #30946
Assistant Attorney General
Office of the Attorney General
Consumer Advocate and
Protection Division
P. O. Box 20207
Nashville, TN 37202-0207

Dated: April '2015

ATTACHMENT 8

**IN THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE**

IN RE:)	
)	
ATMOS ENERGY CORPORATION)	
GENERAL RATE CASE AND PETITION)	DOCKET NO. 14-00146
TO ADOPT ANNUAL REVIEW)	
MECHANISM AND ARM TARIFF)	

STIPULATION AND SETTLEMENT AGREEMENT

For the purpose of settling this case, Tennessee Regulatory Authority ("TRA" or "Authority") Docket No. 14-00146, Herbert H. Slatery III, the Tennessee Attorney General and Reporter, by and through the Consumer Advocate and Protection Division ("Consumer Advocate" or "CAPD") and Atmos Energy Corporation ("Atmos Energy" or "Company") respectfully submit this Stipulation and Settlement Agreement ("Settlement Agreement"). Subject to Authority approval, the Consumer Advocate and Atmos Energy (individually, a "Party" and, collectively, the "Parties") agree to the following:

BACKGROUND

1. Atmos Energy is incorporated under the laws of the State of Texas and the Commonwealth of Virginia and is engaged in the business of transporting, distributing and selling natural gas in Bedford, Blount, Carter, Greene, Hamblen, Maury, Moore, Obion, Rutherford, Sullivan and Williamson Counties within the State of Tennessee, with its principal Tennessee office and place of business located at 810 Crescent Centre Drive, Suite 600, Franklin, Tennessee 37067-6226.

2. The Tennessee public utility operations of Atmos Energy are subject to the jurisdiction of the TRA, pursuant to Chapter 4 of Title 65 of the Tennessee Code Annotated.

3. On November 25, 2014, Atmos Energy filed a Petition of Atmos Energy

Corporation for a General Rate Case and Petition to Adopt Annual Review Mechanism and ARM Tariff ("Petition") in this TRA Docket. In the first part of the Petition, Atmos Energy claimed a revenue deficiency, sought an increase in its annual revenues of approximately \$5.89 million, and sought adoption of methodologies that would enable it to opt into an annual review of rates under Tenn. Code Ann. § 65-5-103(d)(6) (referred to as part one in the Petition and herein as the "Rate Case"). In the second part of the Petition, Atmos Energy sought approval of an Annual Review Mechanism ("ARM") and ARM tariff.

4. On December 23, 2014, the Consumer Advocate filed a Petition to Intervene. By order dated January 7, 2015, intervention was granted.

5. The Parties to this Settlement Agreement have engaged in substantial discovery. The Company also has provided information informally in response to questions from the Consumer Advocate and its witnesses, and has responded to additional discovery requests from TRA Staff.

6. The Consumer Advocate filed direct testimony on April 7, 2015, challenging several aspects of the Company's proposed rate increase and ARM proposal. Among the aspects challenged, as shown in the testimony of the CAPD witnesses filed in this Docket, were the Company's calculation of rate base and numerous expenses, as well as the methodologies by which the Company arrived at certain of the amounts requested. The Consumer Advocate's witnesses, after extensive discovery and analysis recommended a decrease in rates of approximately \$3 million.

7. The Parties have undertaken extensive discussions and "give and take" negotiations to resolve all known disputed issues in this case. As a result of the information obtained during discovery and the discussions between the Parties, and for the purpose of avoiding further litigation and resolving this proceeding upon acceptable terms, the Parties have

reached this Settlement Agreement.

In furtherance of this Settlement Agreement, the Parties have agreed to the settlement terms set forth below.

SETTLEMENT

8. Based upon the exchange of information and discussions described above, and in order to resolve this case through settlement and avoid the need for further litigation and expenses for all Parties, the Parties have agreed, subject to Authority approval, to certain adjustments and amendments to the Company's Petition, which are discussed herein.

9. **Attrition Period:** The Parties agree that the appropriate attrition period for use in the Rate Case part of this proceeding is the 12 months ended May 31, 2016.

10. **Revenue Deficiency:** The adjustments and amendments to the Company's requests filed in the Rate Case part of the Petition collectively reduce the Company's attrition period revenue deficiency from \$5.89 million (a proposed revenue increase of 3.9%) to \$0.71 million (an increase of 0.5%). The Parties agree that, subject to Authority approval, this revenue deficiency is reasonable and appropriate with respect to the Rate Case.

11. **Revenue Requirement:** The Parties agree, with respect to the Rate Case, that the Company's attrition period cost of service should include the components set forth on Attachment A hereto, which the Parties agree are fair and reasonable to the Company and its customers and which include the following:

- a. Required operating income of \$19,167,175;
- b. A rate base of \$247,923,553;
- c. An overall rate of return of 7.73% on rate base;
- d. A return on common equity of 9.80%;
- e. A capital structure consisting of 5.01% short-term debt, 41.86% long-term debt, and 53.13% equity;

- f. A cost of short-term debt of 1.07%;
- g. A cost of long term debt of 5.90%; and
- h. An attrition period revenue deficiency of \$711,472.

12. **Rates:** The Parties agree that, with respect to the Rate Case, the rates reflected in Attachment A and tariffs reflected in Attachment B are fair and reasonable and appropriate for the limited purpose of resolving this proceeding. The Parties further agree that, subject to TRA approval, the Rate Case rates set forth on Attachment B shall be effective on bills rendered on and after June 1, 2015.

13. **Annual Review Mechanism and Ratemaking Methodologies:** The Parties agree (I) that the Company may opt into an annual review of its rates pursuant to Tenn. Code Ann. § 65-5-103(d)(6); (II) that the terms and conditions of the amended ARM tariff (which is attached hereto as Attachment C and referred to herein as the "ARM Tariff") are fair and reasonable and appropriate for the limited purpose of resolving this proceeding; and (III) as follows:

a. **Annual ARM Filing**

- (i) The Company shall make an Annual Reconciliation Revenue Requirement filing on or before January 15th of each year ("Annual ARM Filing") under Tenn. Code Ann. § 65-5-103(d)(6)(A) and (C).
- (ii) Certain required procedures, definitions, filings, and time frames relevant to the Annual ARM Filing are stated in the ARM Tariff.
- (iii) The Company shall provide, with each year's Annual ARM Filing, each and every document, spreadsheet, workpaper, and exhibits and attachments that are listed or described on Attachment E. Nothing herein shall limit the TPUC staff or Consumer Advocate from requesting additional data and/or documents after each Annual ARM

Filing, and the Company shall provide any such additional requested data and/or document within 10 business days of such request.

- (iv) All of the items listed or described on Attachment E shall be provided at the time that the Company makes the Annual ARM Filing. The Company will not make its first Annual ARM Filing prior to February 1, 2016.
- (v) Each Annual ARM Filing shall present financial data and ratemaking calculations for a Historic Base Period as defined and calculated in the ARM Tariff and shall calculate a revenue sufficiency or deficiency based upon the Historic Base Period results, modified pursuant to the terms of this Settlement Agreement and ARM Tariff.
- (vi) In each Annual ARM Filing, the Company shall utilize the Approved Methodologies, as defined below.
- (vii) Any rate adjustment resulting from an Annual ARM Filing, after review, consideration, and adjustment of the tariff rates requested by such Annual ARM Filing by TPUC under Tenn. Code Ann. § 65-5-103(d)(6)(C), shall be effective on bills rendered on and after June 1.
- (viii) The resulting revenue sufficiency or deficiency shall be applied to all rate classes, excluding existing TPUC approved Special Contracts (as defined in and set out on Attachment G to this Settlement Agreement).

b. **Representations and Warranties Made With Annual ARM Filing With**

each Annual ARM Filing, a Company officer shall, as of the date of each Annual ARM Filing, affirmatively represent and warrant, upon information and belief formed after reasonable inquiry, by signing a certificate ("Certificate") under oath:

- (i) That the Company's Annual ARM Filing has been prepared in accordance with the Approved Methodologies, or that any deviation from or the resolution of any ambiguities in the Approved Methodologies has been affirmatively disclosed and explained in a document attached to such affidavit;
- (ii) That all New Matters (as defined below) have been affirmatively disclosed and explained in a document attached to such affidavit;
- (iii) That the Variance Report (as defined below) includes all matters that are required by this Settlement Agreement and any related TPUC order to be disclosed in the Variance Report;
- (iv) That no Disallowed Items (as identified and described in Attachment H to this Settlement Agreement) have been included in the Company's Annual ARM Filing;
- (v) That, except as expressly disclosed in a separate schedule dedicated to such disclosure attached to the Certificate, there have been no additions, deletions, or modifications to the accounts or subaccounts used by the Company to account for operating revenues and expenses on the Effective Date (as defined below) of this Settlement Agreement and as such accounts or subaccounts have been provided to TPUC and Consumer Advocate in the form of discovery and data requests in this TPUC Docket 14- 00146, with such accounts

forming the basis for the calculations and review performed in connection with and that resulted in this Settlement Agreement;

- (vi) That there has been no change in the method of accounting or estimation in any account or subaccount referenced and described in the immediately preceding subsection (v) since the Effective Date of this Settlement Agreement;
- (vii) That the Annual Budget associated with Tennessee jurisdictional operations shall be provided and that such budget is verified to be consistent with a component of the Atmos corporate budget that is the basis for the publicly available earnings 'guidance' provided annually to investors and the public generally. The Annual Budget submitted with the ARM filing to be made on or before January 15th shall include the period beginning with the previous October 1st and ending September 30th, the fiscal period of the Company.

c. Allocation of Rate Change, If Any, After Annual ARM Filing, Among Customer Classes and Rate Components

- (i) The Annual Reconciliation Revenue Requirement sufficiency or deficiency shall be distributed among the rate classes proportionate to the current margin of each class, proportionate to the current base and volumetric components within each class and otherwise consistent with the distribution methodology as reflected on Schedule 1 1-3 of this Settlement Agreement.
- (ii) Existing Special Contracts are unaffected and will not see a change in rates.

- d. **Special Contracts:** The Company will notify TPUC and Consumer Advocate at least 120 days prior to any termination, renewal, or other rate related change to any existing Special Contract and seek TPUC approval for any such change. The Consumer Advocate may seek intervention in any such docket and Atmos Energy agrees not to object to the Consumer Advocate's intervention.
- e. **Definitions**
- (i) **Annual Filing Date** shall be the date the Company will make its Annual ARM Filing. The Annual Filing Date shall be no later than January 15th of each year.
 - (ii) **Historic Base Period** is defined as the twelve month period ending September 30 of each year prior to each Annual Filing Date.
 - (iii) **New Matters** refers to any issue, adjustment, and/or ambiguity in or for any account, method of accounting or estimation, or ratemaking topic that would directly or indirectly affect the Annual ARM Filing for which there is no explicit prior determination in this Docket 14-00146 by TPUC regarding the Company. The definition of "New Matters" includes, without limitation, any matter or item specifically described or set forth as a New Matter in this Settlement Agreement.
- f. **Authorized Return on Equity:** The Parties stipulate and agree to an Authorized Return on Equity of 9.80% for the Rate Case portion of this Docket, which shall therefore be used in calculating the revenue sufficiency or deficiency under the ARM Tariff.

- g. **Methodologies for Calculation of Annual Reconciliation Revenue Requirement and Resulting Sufficiency.** The revenue requirement and resulting sufficiency or deficiency shall be calculated using the ratemaking methodologies explicitly defined and set out in this Settlement Agreement ("Approved Methodologies").

(i) **Billing Determinants and Revenue at Present Rates**

A. **Historic Base Period Billing Determinants** – In calculating the Historic Base Period Billing Determinants, the Company shall begin with Historic Base Period sales and transportation volumes, bills and billing demand units. The Company shall then adjust the billing determinants for normal weather, annualized customer usage and customer growth to arrive at the Weather Normalized Billing Determinants. The weather adjustment shall be calculated using the weather data from the Bristol, Knoxville, Nashville and Paducah weather stations to normalize sales data, and the Company shall use the daily normal weather for the 30-year period ending at the end of each Historic Base Period.

B. **Weather Normalization** – The weather adjustment shall be calculated using the weather data from the Bristol, Nashville, Knoxville (TN) and Paducah (KY) NOAA weather stations to normalize actual usage for all customers served under Rate Schedule (210), (211), (220), (221) and

(225), as well as the commercial sales customers under Rate Schedule (230). From this data a 30-year daily normal ending at the conclusion of the Historic Base Period shall be calculated. Monthly normal cycle degree days shall be calculated from the 16th of the previous month to the 15th of the current month to approximate cycle-billing. Weather normalization months shall be the periods from October through April. Normalized HDDs by weather station for the Historic Base Period ending June 30, 2014 are attached as Attachment D to this Settlement Agreement. Beginning with the Company's initial Annual ARM Filing on February 1, 2016, the normalized HDDs will be presented as of the end of each Historic Base Period ending September 30th of each year. Weather normalization shall continue to be subject to annual TPUC audit and the Consumer Advocate shall have the right to intervene in any docket related to the audit. Atmos Energy agrees not to object to any such intervention by the Consumer Advocate.

- C. **Other Revenues** – The Company shall calculate Other Revenues, consisting primarily of forfeited discounts and miscellaneous service charges, by calculating a two year average of these amounts up to the end of each Historic Base Period.
- D. **Cost of Gas** - The Company shall calculate Cost of Gas by

using the Historic Base Period per books cost of gas adjusted to remove rent for Intercompany Leased Storage Property to arrive at the adjusted Historic Base Period Cost of Gas.

- h. **Operations and Maintenance Expense ("O&M").** Total O&M excluding Cost of Gas and Pension and Other Post Employment Benefit Expense shall be comprised of expenses incurred directly in the Company's Tennessee operations and expenses allocated from the three rate divisions that allocate expenses to Tennessee (Division 091, the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012, Shared Services Customer Service). For divisions 091, 002 and 012, the amount of expense shall be allocated to the Tennessee operation as described in the Company's Cost Allocation Manual (CAM).

- (i) **O&M (excluding rent, FAS 87 accrual, disallowances and bad debt expenses)** -- O&M expense types other than otherwise noted above and below shall be equal to the Company's costs recorded pursuant to Generally Accepted Accounting Principles and consistent with the provisions outlined in the Federal Energy Regulatory Commission's Uniform System of Accounts for natural gas Utilities. For divisions 091, 002 and 012, the appropriate amount of expense shall be allocated to the Tennessee operation as described in the Company's Cost Allocation Manual (CAM).

- (ii) **Rent** – The Company shall include in its O&M forecast the

adjustments documented and described in the response to CAPD DR 1-58 (removal of the Franklin building from the plant additions forecast and addition of lease payments previously removed) (attached as Attachment I).

- (iii) **FAS 87 accrual** – The Company shall remove from O&M any amounts related to FAS 87 expenses (subaccount 01202, and any amount in any successor or replacement account or subaccount containing FAS 87 expenses). In years that the Company makes actual cash contributions to its pension fund, it shall be allowed to recover those cash contributions. The amount of cash contribution allocable to and recoverable from Tennessee shall be consistent with the methodology represented in WP 4-4 of this Settlement Agreement and be based on the amount of future liability allocable to Tennessee as defined by the Company's actuary. The allocation methodology described is consistent with that used in Docket Nos. 08-00197 and 12-00064.
- (v) **Disallowances** – The Company shall remove from O&M amounts related to incentive compensation, spousal and dependent travel, and non-deductible dues. Specifically, the Company shall remove allocated net expense amounts for incentive compensation, spousal and dependent travel, and non-deductible dues charged to the following subaccounts: 07452, 07458, 07460, 07463, 07454, 07450, 05416, and 05412, as well as any subaccount that in form or substance could constitute a successor or replacement for such subaccount.

- (vi) **Regulatory and Legal Cost Rate** – Legal expenses associated with prosecuting the Company's Annual ARM Filing are expected to be annually recurring and significantly lower than the level required to prosecute a traditional rate case. The annual expense incurred for such regulatory and legal expenses shall be charged to O&M expenses as incurred.
- (vii) **Other** - An adjustment for intercompany leased property shall be included consistent with the data and calculations on WP 3-1 attached to this Settlement Agreement and all previous rate filings made by the Company since 1989.

i. Taxes, Other than Income Taxes

- (i) Total Taxes, Other than Income Taxes shall be comprised of taxes incurred directly in the Company's Tennessee operations and taxes allocated from the three rate divisions that allocate expenses to Tennessee (Division 091, the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012, Shared Services Customer Service). For divisions 091, 002 and 012, the appropriate amount of taxes shall be allocated to the Tennessee operation as described in the Company's Cost Allocation Manual (CAM).
- (ii) An adjustment for intercompany leased property shall be included consistent with the data and calculations on WP 3-1 attached to this Settlement Agreement and all previous rate filings made by the Company since 1989.

j. Depreciation and Amortization Expense

- (i) Prudent rate making and accounting requires that depreciation rates be updated periodically. The Company's practice is to conduct depreciation studies and update rates in its various operating divisions and entities housing shared assets (including the Kentucky Mid-States General Office and SSU) every 4-6 years. The Company does plan to conduct depreciation studies in the future consistent with this practice and prudent accounting and rate making procedures. In the event it conducts a depreciation study for its Tennessee operations or any of the entities that house shared assets that support Tennessee operations, the Company shall, within 30 days of completing the study, file the depreciation study with the TPUC, and provide a copy to the Consumer Advocate, and ask that the rates contained in the study be approved for its next annual review. Following any appropriate discovery and rebuttal, and conditioned upon approval by the TPUC of new rates, the Company shall calculate depreciation expense using the newly approved rates in its subsequent Annual ARM Filing. To assist with review, the Company shall file any new depreciation study when it is completed, rather than waiting until it makes the next Annual ARM Filing.
- (ii) An adjustment for intercompany leased property shall be included consistent with the data and calculations on WP 3-1 attached to this Settlement Agreement and all previous rate filings made by the Company since 1989.

k. **Rate Base** The rate base shall include thirteen month balances for each of

the following components. Each component shall be quantified consistent with the methodologies described in each section below:

- (i) **Original Cost of Plant** — Shall include the amounts properly charged to Tennessee (Division 091) as well as amounts properly allocated to the Tennessee jurisdiction from the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012.

Two components of SSU that house shared plant assets, the Charles K. Vaughan Center (CKV) and Greenville data center, shall use allocation percentages that recognize the unique nature and use of those assets and that are consistent with the Company's workpapers.

- (ii) **Accumulated Depreciation and Amortization** – Shall include the amounts properly charged to Tennessee (Division 091) as well as amounts properly allocated to the Tennessee jurisdiction from the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012.
- (iii) **Construction Work in Progress ("CWIP").**
- (iv) **Storage Gas Investment** - Forward Looking Test Year storage gas balances shall be based on actual balances through the end of each Historic Base Period and forecasted storage usage with future injections priced at NYMEX futures prices.
- (v) **Cash Working Capital** - The Company conducted a new lead-lag study for this Docket in order to calculate cash working capital requirements. Rather than conduct a new lead-lag study with each

Annual ARM Filing, the Company shall apply the lead-lag factors from this study in the subsequent ARM filings.

- (vi) **Materials and Supplies.**
- (vii) **Regulatory Assets** - Attachment F lists the regulatory assets that are recognized for the Company. Attachment F shall include the Deferred Pension Regulatory Asset that is more particularly described below.
- (viii) **Accumulated Deferred Income Tax (ADIT)** – Shall include the amounts properly charged to Tennessee (Division 091) as well as amounts properly allocated to the Tennessee jurisdiction from the Kentucky Mid-States General Office; Division 002, Shared Services General Office; and Division 012.
- (x) **Customer Advances for Construction.**
- (xi) **Customer Deposits** – Customer deposits shall be projected to increase 0.35% annually from the ending balance in each Historic Base Period.
- (xii) **Accumulated Interest on Customer Deposits.**
- (xiii) **Operating Reserves** – Operating Reserves shall not be included as a component of rate base.
- (xiv) **Net Elimination of Intercompany Leased Property** – An adjustment for intercompany leased property shall be included consistent with the data and calculations on WP 3-1 and all previous rate filings made by the Company since 1989.

l. **Rate of Return**

- (i) **Capital Structure** - The Company's capital structure shall be calculated annually and be made up of:
 - A. Actual equity balance at the end of each Historic Base Period
 - B. Actual long term debt ("LTD") balance at the end of each Historic Base Period
 - C. Twelve-month average short term debt ("STD") balance for the 12 months that comprise each Historic Base Period
 - (ii) **Cost of Debt** - Cost of Long Term Debt shall be calculated annually as it is calculated on WP 9-3 of this Settlement Agreement. Cost of Short Term Debt shall be calculated annually as it is calculated on WP 9-2 of this Settlement Agreement.
 - (iii) **Return on Equity** - The Authorized Return on Equity shall be 9.80% until a different return on equity is adopted by the TPUC in a subsequent general rate case.
- m. **Other Methodologies Adopted** -- To the extent that ratemaking methodologies are not described in this Settlement Agreement and are not inconsistent with any methodology described in this Settlement Agreement, the methodologies used in the Company's revenue requirement model and supporting workpapers and relied-upon files in this Docket No. 14-00146 may be utilized in calculating and evaluating the Company's annual revenue requirement and resulting sufficiency or deficiency; provided, however, that to the extent that any such methodology is or could be interpreted as ambiguous or contradictory, no methodology shall be inferred with respect to the item or process that is ambiguous or contradictory.

14. **Annual Reconciliation of Actual Results to Authorized Return on Equity**

- a. On or before January 15th of each year, the Company shall file with the Commission, and shall provide a copy to the Consumer Advocate, a reconciliation of actual results ("Annual Reconciliation") to the Authorized Return on Equity. The Annual Reconciliation shall include a calculation of the actual cost of service, determined in accordance with the Approved Methodologies; using the same revenue requirement model used within previous ARM filings.
- b. The Actual cost of service shall be compared with actual booked revenue, to determine the revenue requirement deficiency or excess ("Annual Reconciliation Revenue Requirement").
- c. Interest shall accrue on the "Annual Reconciliation Revenue Requirement" (whether positive or negative) as described in the Definition Section through the period at which new rates would become effective.
- d. New rates shall be calculated to produce revenue designed to recover the actual cost of service including the deficiency or excess resulting from the Annual Reconciliation calculation. The reconciliation amount approved in Docket No. 18-00097 filed on August 31, 2018 shall be deferred until the resolution of the initial Annual Reconciliation True-Up at which time the reconciliation amount, including a return, shall be added to or subtracted from the resulting Annual Reconciliation Revenue Requirement.
- e. The Annual Reconciliation rates shall be effective on bills rendered on and after June 1 of each year, or a date approved by TPUC. All tariff rates (except Special Contract rates, which shall not be effective) shall be adjusted in

proportion to the relative base revenue share of each class as specified in the Approved Methodologies.

15. **Variance Report and ARM Review** -- As part of its Annual ARM Filing, Atmos Energy shall prepare and file with the TPUC, with a copy to the Consumer Advocate, a Variance Report ("Variance Report") that identifies and explains each and every Atmos Energy operating revenue and expense account and/or subaccount for which the Tennessee amount (including amounts allocated to Tennessee) either:

- a. exceeds the prior year's amount (based on amounts either as filed by Atmos Energy in the Annual ARM Filing or as adjusted by the TPUC under Tenn. Code Ann. § 65-5-103(d)(6)(C)) by 5% and \$30,000; or
- b. exceeds the amount (based on amounts either as filed by Atmos Energy in the Annual ARM Filing or as adjusted by the TPUC under Tenn. Code Ann. § 65-5-103(d)(6)(C)) in such account and/or subaccount in the third preceding year by 10% and \$60,000; or
- c. has been, when compared with the accounts and/or subaccounts existing on the Effective Date of this Settlement Agreement and/or used in the calculations referenced herein, added or deleted or modified in form or substance in any way.

As to any account and/or subaccount (and including without limitation any process related directly or indirectly to any such account or subaccount) included on a Variance Report, the TPUC and/or Consumer Advocate shall have the right in its discretion to request additional information and an explanation from Atmos Energy. Atmos Energy agrees to provide any such information or explanation requested within ten business days of such request. The Consumer Advocate, further, has the right in its discretion to bring such account and/or subaccount (or related process) to the

attention of TPUC and to request TPUC to review and consider such account and/or subaccount (or related process). Without limiting the TPUC's discretion, the Consumer Advocate may recommend any form or process of review it deems appropriate, including without limitation a review that would include the appointment of a third party to review and report on the account and/or subaccount (or related process).

16. **Consumer Advocate's Authority to Petition** -- The Consumer Advocate shall have the right in its sole discretion to file a petition or complaint asking the TRA to terminate or modify any ARM Tariff resulting from this Docket or any directly or indirectly related docket or to take any other action contemplated by Tenn. Code Ann. § 65-5-103(d)(6). Atmos Energy agrees not to oppose the Consumer Advocate's petition or complaint filed under this Section on the grounds that such a proceeding is not statutorily authorized or that Consumer Advocate is not authorized to bring such a proceeding; provided, however, that Atmos Energy reserves all rights with regard to the merits of any termination or modification or other relief that the Consumer Advocate may request or position that the Consumer Advocate may assert in any such proceeding.

17. The Parties agree that the terms of this Settlement Agreement are fair and reasonable to all customer classes and will provide Atmos Energy with a reasonable opportunity to recover the agreed upon operating revenue requirement and a reasonable rate of return on investment.

18. The Parties agree to support this Settlement Agreement before the Authority and in any hearing, proposed order, or brief conducted or filed in this proceeding.

19. The Parties acknowledge that Atmos Energy brought this matter, *inter alia*, to determine rates in a general rate case and to establish adopted ratemaking methodologies sufficient to enable implementation of the annual review mechanism established by Tenn. Code Ann. § 65-5-103(d)(6). The Parties jointly request that the Authority adopt the ratemaking methodologies set forth in this Settlement Agreement for the limited purpose of implementing an annual review

mechanism under Tenn. Code Ann. § 65-5-103(d)(6) under this Docket, and approve the annual review mechanism and ARM Tariff consistent with the terms and requirements established by this Settlement Agreement. The methodologies adopted by the Authority as a result of the above request shall be utilized in preparing and evaluating each Annual ARM Filing and Annual Reconciliation filing contemplated under this Docket.

20. None of the Parties waives its right to take other positions with respect to matters similar to those settled herein in future proceedings before the Authority.

21. The resolution of issues reflected herein is the result of give and take negotiations between the Parties and does not necessarily reflect the position of any single Party on any discrete issue, and no Party waives the right to assert any position in any future proceeding.

22. Except to the limited extent necessary to allow the Authority to implement an annual review mechanism under Tenn. Code Ann. § 65-5-103(d)(6) in this Docket (and, for the avoidance of doubt, only in this Docket 14-00146), the Parties acknowledge and agree as follows:

- a. This Settlement Agreement shall not have any precedential effect in any other proceeding or be binding upon any of the Parties in this or any other jurisdiction;
- b. None of the signatories hereto shall be deemed to have acquiesced in any ratemaking or procedural principle, including without limitation, any cost of service determination or cost allocation or revenue related methodology,
- c. No provision of this Settlement Agreement shall be deemed an admission of any Party.

23. The Parties agree that all pre-filed testimony and exhibits and attachments of the Parties (including pre-filed supplemental testimony and exhibits and attachments supporting this Settlement Agreement) will be admitted into evidence without objection and become part of the

public record and the Parties hereby waive their right to cross-examine all witnesses with respect to such pre-filed testimony and exhibits and attachments; provided, however, that should questions be asked of such witnesses by any person at the hearing of this matter (including any questions by Directors), the Parties may cross-examine any witness with respect to such questions consistent with the agreement set forth in this Settlement Agreement. As to the Supplemental Testimony that is the subject of the Consumer Advocate's Motion for Leave to File Supplemental Testimony filed on April 21, 2015, and any rebuttal thereto, the parties shall abide by the hearing officer's decision. Public comment regarding the Settlement Agreement will also be welcome and encouraged by the Parties.

24. The terms of the Settlement Agreement have resulted from extensive negotiations between the signatories and the terms hereof are interdependent. The provisions of this Settlement Agreement are agreements reached in compromise and settlement and solely for the purpose of resolving this Docket without the need for further litigation.

25. The provisions of this Settlement Agreement are not severable.

26. The Parties jointly recommend that the Authority issue an order adopting this Settlement Agreement in its entirety without modification.

27. If the Authority does not approve the settlement in its entirety, the Parties are not bound by any position or term set forth in this Settlement Agreement, except for this Section. In the event that the Authority does not approve this Settlement Agreement in its entirety, each of the signatories to this Settlement Agreement will retain the right to terminate this Settlement Agreement and/or to seek additional time to consider or review any proposed modifications. By agreeing to this Settlement Agreement, no Party waives any right to continue litigating this matter should the Settlement Agreement be rejected or modified, in whole or in part, by the Authority.

28. The Parties agree that this Settlement Agreement constitutes the complete understanding among the Parties concerning the resolution of issues and matters under this TRA Docket 14-00146, and any oral statements, representations or agreement concerning such issues and matters made prior to the execution of this Settlement Agreement have been merged into this Settlement Agreement.

29. The Consumer Advocate's agreement to this Settlement Agreement is expressly premised upon the truthfulness, accuracy and completeness of the information provided by the Company to the Consumer Advocate throughout the course of this Docket, which information was relied upon by the Consumer Advocate in negotiating and agreeing to the terms and conditions of this Settlement Agreement.

30. The acceptance of this Settlement Agreement by the Attorney General shall not be deemed approval by the Attorney General of any of the Company's practices.

31. Each signatory to this Settlement Agreement represents and warrants that it/he/she has informed, advised and otherwise consulted with the Party for whom it/he/she signs regarding the contents and significance of this Settlement Agreement and has obtained authority to sign on behalf of such Party, and based upon those communications, each signatory represents and warrants that it/he/she is authorized to execute this Settlement Agreement on behalf of its/his/her respecting Party.

32. This Settlement Agreement shall be governed by and construed under the laws of the State of Tennessee. Nothing herein limits or alters the Sovereign Immunity of the State of Tennessee or any of its entities or subdivisions.

33. The Parties agree that this Settlement Agreement may be executed in multiple counterparts and by copies provided by facsimile or in .pdf format.

34. The date set forth immediately following shall be the "Effective Date" for purposes

of this Settlement Agreement.

The foregoing is agreed and stipulated to this 29th day April, 2015.

STIPULATION AND SETTLEMENT AGREEMENT
IN TRA DOCKET 14-00146
SIGNATURE PAGE

ATMOS ENERGY CORPORATION

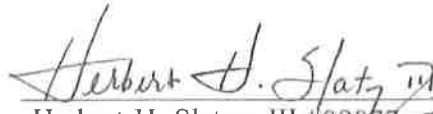
A handwritten signature in dark ink, appearing to read 'A. Scott Ross', is written over a horizontal line.

A. Scott Ross, # 15634
Blind Akrawi, #23213 Neal
& Harwell, PLC 2000 One
Nashville Place 150 Fourth
Avenue, North
Nashville, TN 37219-2498
(615) 244-1713 - Telephone

Dated: April J. 2015

**STIPULATION AND SETTLEMENT
AGREEMENT IN TRA DOCKET 14-00146
SIGNATURE PAGE**

**CONSUMER ADVOCATE AND
PROTECTION DIVISION**



Herbert H. Slatery III, #09077
Attorney General and Reporter



Wayne M. Irvin, #30946
Assistant Attorney General
Office of the Attorney General
Consumer Advocate and
Protection Division
P.O. Box 20207
Nashville, TN 37202-0207

Dated: April '2015

ATTACHMENT 9

ATTACHMENT A

Deviation to Approved Methodologies

The Company respectfully files its 2016 Annual Review Mechanism (ARM) filing with one deviation to the Approved Methodologies, as described in Section 13(k)(ix) of the *Stipulation and Settlement Agreement* as approved in Exhibit A of the *Order Approving Settlement* in Tennessee Regulatory Authority Docket No. 14-00446 (the "Settlement Agreement").

Accumulated Deferred Income Tax ("ADIT") Forecast

The Approved Methodologies state in Section 13(k)(ix) of the Settlement Agreement that, with the exception of fixed asset ADIT balances, all other ADIT balances shall be held constant from the end of the Historic Base Period. In order to ensure compliance with the normalization rules in the Internal Revenue Code, the Company has determined that it must project its Net Operating Loss Carry forward ("NOLC") balance in jurisdictions that employ forward looking test periods (including Tennessee). The Company makes this projection on WP 7-1 of its filing and includes the projection of its NOLC in rate base. The inclusion of the NOLC in rate base is required by the Approved Methodologies. The new methodology also impacts the categorization of current and deferred taxes on WP 7-6. The change will have no ultimate impact on ratepayers, as the Company's actual NOLC balance will be included as required in the Annual Reconciliation as defined in Section VII of the ARM Tariff (Atmos Energy Tariff Sheet No. 34.6) and Section 14 of the Settlement Agreement.

ATTACHMENT 10

ATTACHMENT A-1

Deviations from Approved Methodologies

Removal of Capitalized Incentive Compensation

The Settlement Agreement in Docket No. 16-00105 specifies in paragraph 11 that the Company will propose a change in the Approved Methodologies to remove capitalized incentive compensation from rate base on a prospective basis, accounting for the cumulative impact and changes in balance to reflect amortization of prior years' removals, with the goal that this would be included in the Company's February 1, 2017 ARM filing (the instant filing). Further, the Company agreed to provide the proposed change in methodology to CPAD no later than January 17, 2017.

The Company reviewed its proposed change to the Approved Methodologies with CPAD on January 17, 2017 as agreed.

The Company specifically proposes the following changes to the Approved Methodologies to meet the requirements of paragraph 11 of the Settlement Agreement in Docket No. 16-00105:

1. As part of the ARM tariff requirement to file Tennessee Minimum Filing Requirement #38 with each ARM filing, the Company will modify the traditional format of MFR #38 to include a calculation of the allocated net capitalized incentive compensation to be removed from the cost of service of each forward-looking test year in each February 1 ARM filing.
Annual Reconciliation Filing.
2. The Company will develop a projected amortization schedule for each calculated disallowance by calculating the weighted average allocated depreciation rate for the plant included in each ARM filing.
- 3.2 The Company will replace each ~~actual~~ projected adjustment amount and amortization schedule with a reconciled adjustment amount and amortization schedule upon filing its Annual Reconciliation filing as prescribed by the ARM tariff.
- 4.3 In each of its ARM filings and Annual Reconciliation filings, the Company will include as a rate base adjustment the unamortized balance of each projected or reconciled capitalized incentive compensation adjustment as appropriate.

As part of the instant Docket, the Company has included the impact of the proposed methodology change. The rate base adjustment on Line 25 of Schedule 7 includes the unamortized capitalized incentive compensation adjustment from the reconciled test year ending May 31, 2016 (Docket No. 16-00105), and the projected adjustments from the test years ending May 31, 2017 and May 31, 2018 (Docket No. 16-00013 and the instant Docket).

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ATTACHMENT 11

ATTACHMENT A-2

Deviations from Approved Methodologies

Allocation of Certain Shared Plant Balances

The Approved Methodologies recognize that there are two unique groups of plant assets (Charles K. Vaughan Center (CKV) and Greenville data center) that merit unique allocators for ratemaking separate from the standard allocators for the division General Office (091) and Shared Services (002 and 012) (Stipulation and Settlement Agreement approved in Docket No. 14-00146 at paragraph 13(k)(i)(C) on page 20). The Company recently recognized two new groups of assets that similarly merit separate plant allocators for ratemaking. "AEAM" assets are shared assets that do not serve or support Atmos Pipeline Texas, the Company's regulated intrastate pipeline. Align system assets ("ALGN") are assets (primarily software) that, as of the end of the base period in the instant Docket, only support certain regulated divisions not including Tennessee.

Recognizing the unique nature of the assets described above, the Company is proposing to allocate shared assets using two new allocators in addition to the ones currently in the Approved Methodologies. The two new allocators function identically to the CKV and Greenville pools of assets, albeit with different allocation factors. The two new pools of assets are included in WPs 7-1 and 7-2 as well as the plant balance relied upon file ("s. Plant Balances 2017 TN Case.xlsx"). While the allocation of ALGN to Tennessee is currently zero, the Company anticipates those software assets will support and be useful by all of its regulated operations in the next 18-24 months. When those assets are used and useful in support of Tennessee operations, the Company will re-calculate and update the allocation factors in subsequent ARM filings as appropriate.

ATTACHMENT 12

ATTACHMENT A

Deviations from Approved Methodologies

Regulatory Assets and Liabilities and Accumulated Deferred Income Tax Deviations
Required by the Tax Cuts and Jobs Act ("TCJA")

The Tax Cuts and Jobs Act ("TCJA") was signed into law on December 22, 2017, making certain federal tax law changes, including a reduction in the corporate income tax rate. These tax law changes necessitate corresponding changes to certain aspects of the Company's revenue requirement model. Accordingly, the Company respectfully files its 2018 Annual Review Mechanism (ARM) filing with certain deviations from the Approved Methodologies, as defined in the ARM Tariff and the *Stipulation and Settlement Agreement* as approved in Exhibit A of the *Order Approving Settlement* in Tennessee Public Utility Commission Docket No. 14-00146 (the "Settlement Agreement") and subsequent Orders of the Commission in Dockets filed pursuant to the Company's ARM tariff. The deviations are required to properly reflect the impact of the TCJA in the Company's revenue requirement and are discussed in depth in the pre-filed direct testimony of Company witness Ms. Jennifer Story. They are briefly summarized below.

Paragraph 13(k)(vii) "Regulatory Assets" of the Settlement Agreement specifies that regulatory assets recognized by the Company be limited to the single item (which is now fully amortized) listed on Attachment F of the Settlement Agreement. There is no specific mention of regulatory liabilities. The TCJA requires the recognition of a regulatory liability for excess deferred income taxes and a deferred tax asset for the tax gross-up of same. The regulatory liability is reflected on Schedule 7 of the revenue requirement schedules while the related deferred tax asset is reflected in the Accumulated Deferred Income Tax balances and supporting workpapers. The amortization of the excess deferred income taxes included in revenue requirement is reflected on Schedule 1.

Paragraph 13(k)(ix) "Accumulated Deferred Income Tax" of the Settlement Agreement specifies that ADIT balances, other than the projected fixed asset accumulated ADIT, be held constant from the end of the Historic Base Period. A deviation is required because the Historic Base Period in this docket ends September 30, 2017 which is three months prior to the effective date of the TCJA. To properly include the impact of the TCJA in the Company's revenue requirement (*Annual Reconciliation filing*), ADIT balances must be stated ~~forecasted~~ consistent with the TCJA to 1) ~~reflect and forecast~~ ADIT balances consistent with the new federal income tax rate and 2) properly reflect the regulatory liability and asset balances described in the preceding paragraph.

Note: The Consumer Advocate agrees that the ADIT balances must accommodate an amortization consistent with the provisions of the TCJA. However, the amount and amortization periods will be finalized in Docket No. 18-00034.