

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

**June, 27, 2019**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF ATMOS ENERGY CORPORATION</b>	)	
<b>FOR APPROVAL OF ITS 2019 ANNUAL RATE</b>	)	<b>DOCKET NO. 19-00018</b>
<b>REVIEW FILING PURSUANT TO TENN. CODE</b>	)	
<b>ANN. § 65-5-103(d)(6).</b>	)	

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**ORDER APPROVING 2019 ANNUAL RATE REVIEW FILING**

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This matter came before Chairman Robin L. Morrison, Commissioner John Hie, and Commissioner David F. Jones of the Tennessee Public Utility Commission (the “Commission” or “TPUC”), the voting panel assigned to this docket, during the regularly scheduled Commission Conference held on May 20, 2019, for hearing and consideration of the *2019 ARM Forward-Looking Filing* (“*Petition*” or “2019 ARM Filing”) filed on February 1, 2019 by Atmos Energy Corporation (“Petitioner,” “Atmos,” or “Company”).

**BACKGROUND AND 2019 ARM FILING**

In Docket No. 14-00146, the Commission approved *Stipulation and Settlement Agreement*<sup>1</sup> (“*Agreement*”) between Atmos and the Consumer Protection and Advocate Division of the Office of the Tennessee Attorney General and Reporter<sup>2</sup> (“Consumer Advocate”). The *Agreement* established both a general rate increase, pursuant to Tenn. Code Ann. § 65-5-103(a), and an annual rate review mechanism (“ARM”), as authorized by Tenn. Code Ann. § 65-5-

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<sup>1</sup> *In re: Petition of Atmos Energy Corporation for a General Rate Increase Under T.C.A. 65-5-103(a) and Adoption of an Annual Rate Review Mechanism Under T.C.A. 65-5-103(d)(6)*, Docket No. 14-00146, *Order Approving Settlement* (November 4, 2015) (hereinafter “*Atmos Rate Case*, Docket No. 14-00146, *Order Approving Settlement*”).

<sup>2</sup> The Consumer Protection and Advocate Division of the Office of the Tennessee Attorney General and Reporter is now known as the Consumer Advocate Unit in the Financial Division of the Attorney General’s Office.

103(d)(6). The ARM allows for annual rate reviews by the Commission rather than a general rate case.<sup>3</sup> Pursuant to the *Order Approving Settlement*, the twelve-month period ending September 30<sup>th</sup> of each year prior to the annual ARM filing date of February 1<sup>st</sup> is to be used as the test year, with rates to be established based on a forward-looking test year for the twelve-month period ending May 31<sup>st</sup> of each following year.<sup>4</sup> In addition, the Company is required to use the authorized return on equity as established in Docket No. 14-00146 or in any subsequent general rate case of the Company.<sup>5</sup>

In the *Agreement*, Atmos agreed to submit with its annual ARM filing an attestation from a Company officer affirming the following:

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

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<sup>3</sup> Tenn. Code Ann. § 65-5-103(d)(6) (LexisNexis 2018 Supp.).

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

<sup>5</sup> *Id.*

7. That there have been no changes in the method of accounting or estimating of any account or subaccount in the filing.<sup>6</sup>

The Company must also file an Annual Reconciliation to the authorized return on equity by September 1<sup>st</sup> of each year in addition to the annual rate review filing. The Annual Reconciliation is required to reconcile actual amounts to the Company's authorized return on equity for the forward-looking test year that immediately completed, inclusive of interest at the overall cost of capital compounded for two years. The resulting rates will be effective on bills rendered on or after June 1<sup>st</sup>.<sup>7</sup>

Atmos submitted its *2019 ARM Forward-Looking Filing* attesting its compliance with its tariff approved in Docket No. 14-00146 on February 1, 2019. This filing forecasts operating results for the forward-looking test year ending May 31, 2020 and the additional revenue needed in order for the Company to earn its authorized Return on Equity ("ROE") for that test year. Included with this filing are:

1. Certification of J. Kevin Dobbs, President, Kentucky Mid-States Division for Atmos Energy Corporation, including an attachment outlining a deviation from Approved Methodologies;
2. Testimony of Gregory K. Waller;
3. List of Dockets Utilizing Approved Methodologies;
4. Revenue Requirement Schedules;
5. Relied-Upons;
6. Weather Normalization;
7. Minimum Filing Requirement #38;

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<sup>6</sup> *Id.* at 6.

<sup>7</sup> *Id.* at 5-7.

8. Trial Balance;
9. General Ledger;
10. Variance Report; and,
11. Proposed Tariff.

The Consumer Advocate filed a *Petition to Intervene* on February 21, 2019 which was granted by an order of the Hearing Officer entered on March 13, 2019.<sup>8</sup> A procedural schedule was established for the provision of discovery and pre-filed testimony in anticipation of a hearing.<sup>9</sup>

### **POSITIONS OF THE PARTIES**

#### **Atmos**

Mr. J. Kevin Dobbs, President, Kentucky Mid-States Division, certifies this filing complies with the approved methodologies established in the Company's ARM tariff, with the exception of certain deviations set out in Attachment A to his certificate and certain disclosed added and/or deleted accounts and subaccounts set out in Attachment B to his certificate.<sup>10</sup> The Attachment A deviations, explained in more detail in the Pre-Filed Testimony of Gregory K. Waller, relate to matters addressed discussed in previous dockets and treated consistent with those previous dockets.<sup>11</sup>

Mr. Gregory K. Waller submits testimony supporting the revenue requirement schedules, relied-upon files, and other contents of the filing. Mr. Waller testifies that all calculations were

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<sup>8</sup> *Order Granting the Petition to Intervene Filed By the Consumer Advocate* (March 13, 2019).

<sup>9</sup> *Order Establishing Procedural Schedule* (March 14, 2019).

<sup>10</sup> *2019 ARM Forward-Looking Filing, Pre-Filed Certificate* of J. Kevin Dobbs, pp. 5-7 (February 1, 2019).

<sup>11</sup> *Id.* at 8-9. See also *In re: Response of Atmos Energy Corporation to the Commission's Order Opening an Investigation and Requiring Deferred Accounting Treatment*, Docket No. 18-00034, David Dittmore, Pre-Filed Direct Testimony, pp.18-19 (December 21, 2018); *In re: Response of Atmos Energy Corporation to the Commission's Order Opening an Investigation and Requiring Deferred Accounting Treatment*, Docket No. 18-00034, Jennifer K. Story, Pre-Filed Rebuttal Testimony, p. 3 (January 23, 2019); *In re: Atmos Energy Corporation – 2018 ARM Reconciliation Filing*, Docket No. 18-00097, David Dittmore, Pre-Filed Direct Testimony (January 9, 2019); and, *In re: Atmos Energy Corporation – 2018 ARM Reconciliation Filing*, Docket No. 18-00097, William H. Novak, Pre-Filed Direct Testimony, pp. 15-17 (January 9, 2019).

made in accordance with the approved methodologies. The calculations are shown in the Revenue Requirement Schedules 1 through 11, which provide the historic base year and forward-looking attrition year cost of service, revenues, gas cost expense, Operation and Maintenance (“O&M”) expense, taxes other than income taxes, depreciation and amortization expense, return on rate base, excise and income tax, cost of capital, rate of return, and proof of revenues and calculation rates.<sup>12</sup>

Mr. Waller states the Company’s total cost of service for the test year ended May 31, 2020 is \$156,319,367 with projected revenues, calculated at current rates, of \$151,201,596, resulting a revenue deficiency for the test year ending May 31, 2020 of \$5,117,771. An annual reconciliation revenue requirement sufficiency of \$3,219,825, the amount then pending in the 2018 ARM Reconciliation Filing<sup>13</sup> in Docket No. 18-00097<sup>14</sup>, and an expense credit of \$1,036,590 for amortization of the excess Accumulated Deferred Income Tax (“ADIT”) have been added to the revenue deficiency resulting, in a total revenue deficiency of \$861,355.<sup>15</sup> Mr. Waller also provided proposed tariffs that produce the needed revenue.<sup>16</sup>

Mr. Waller testifies concerning adjustments that were made to the O&M expense pursuant to the approved methodologies, including: (1) inclusion of operating expenses for the Barnsley storage asset; (2) removal of specified subaccounts, most notably related to the pension accrual and incentive compensation to remove accrued FAS 87 expenses; and, (3) adjustment for intercompany leased property. No rate case expense is included, as it was fully amortized in

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<sup>12</sup> Gregory K. Waller, Pre-Filed Direct Testimony, p. 3 (February 1, 2019). *See also Revenue Requirement Schedule* (February 5, 2019).

<sup>13</sup> *In re: Atmos Energy Corporation – 2018 ARM Reconciliation Filing*, Docket No. 18-00097, *Petition of Atmos Energy for Approval of 2018 Annual Reconciliation Filing*, Gregory K. Waller, Pre-Filed Rebuttal Testimony, p. 4 (February 6, 2019).

<sup>14</sup> The amount of annual reconciliation revenue requirement sufficiency approved by the Commission in Docket No. 18-00097 is \$4,053,984 including carrying costs. *See In re: Atmos Energy Corporation Annual Reconciliation of Annual Review Mechanism*, Docket No. 18-00097, Transcript of Hearing, p. 66 (April 15, 2019) (order pending).

<sup>15</sup> Gregory K. Waller, Pre-Filed Direct Testimony, pp. 3-4 (February 1, 2019).

<sup>16</sup> *Id.*

November 2016. The final O&M expense for the test year indicates a \$287,407 increase from the base period.<sup>17</sup>

The Company's forecast of taxes other than income is an overall increase of \$1,047,063, which is due primarily to increases in Ad Valorem taxes at the Tennessee and Shared Services level. In addition, the Company adjusted depreciation expense to include intercompany leased storage property and removed depreciation expense on capitalized incentive compensation.<sup>18</sup>

Mr. Waller describes rate base as a thirteen-month average of the original cost of plant, accumulated depreciation, storage gas investment, materials and supplies, ADIT, excess ADIT, customer advances, customer deposits and accumulated interest on customer deposits. Mr. Waller testifies that capital investment, such as plant additions, is the primary contributor to increase in rate base, as the Company continues to invest in the safety and reliability of the system.<sup>19</sup> The Company forecasts \$66.4 million for fiscal year 2020, based upon plant additions for the forward-looking test year. These calculations were based upon the detailed fiscal year 2019 capital investment along with the Company's five-year plan with a monthly growth factor of 11.7%.<sup>20</sup>

In addition, the Company included a deviation to the approved methodologies, removing from ADIT items not reflected in cost of service as discussed in David Dittemore's testimony in Docket No. 18-00034 and Docket No. 18-00097 and agreed to by Company witness Jennifer Story in her rebuttal testimony in Docket No. 18-00034.<sup>21</sup> The removed ADIT items relate to pension and incentive compensation, but do not include Director's Stock Award, which is not a

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<sup>17</sup> *Id.* at 5-9.

<sup>18</sup> *Id.* at 9.

<sup>19</sup> *Id.* at 10.

<sup>20</sup> *Id.* at 10-11.

<sup>21</sup> *In re: Response of Atmos Energy Corporation to the Commission's Order Opening an Investigation and Requiring Deferred Accounting Treatment*, Docket No. 18-00034, David Dittemore, Pre-filed Direct Testimony, pp.18-19 (December 21, 2018); *In re: Atmos Energy Corporation – 2018 ARM Reconciliation Filing*, Docket No. 18-00097, David Dittemore, Pre-filed Direct Testimony (January 9, 2019).

component of incentive compensation. The Company also made adjustments for working capital and the net book value of inter-company leased storage property. Mr. Waller testifies that the lead/lag factors approved in Docket No. 14-00146<sup>22</sup> were utilized to calculate actual cash working capital. In addition, the Company included a deviation to the gross up factor by utilizing total revenues as the denominator in calculating the portion of the gross up factor relating to forfeited discounts,<sup>23</sup> as recommended by Consumer Advocate witness, William H. Novak, in Docket No. 18-00097.<sup>24</sup> The Company did not adjust the gross up factor related to allowance for uncollectibles as recommended by Mr. Novak. These deviations were disclosed in the Certification of J. Kevin Dobbs accompanying the filing.<sup>25</sup>

Mr. Waller utilized the authorized 9.8% return on equity to calculate the cost of capital. Mr. Waller further testifies that the cost of service items for which the Company seeks recovery have been prudently incurred. He further attests that the budgeting and forecasting methodologies used are consistent with those used by the Commission in Docket No. 14-00146.<sup>26</sup>

### **Consumer Advocate**

David Dittmore provides testimony on behalf of the Consumer Advocate. Mr. Dittmore states that the parties reached a settlement in Docket No. 18-00097 with a true-up amount of (\$4,053,984) and recommends that the Commission adopt the true-up amount from that docket.<sup>27</sup> The difference between the true-up amount proposed by Atmos and the true-up amount approved in Docket No. 18-00097 is \$834,159, which reflects an increase in the rate reduction from

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<sup>22</sup> *Atmos Rate Case*, Docket No. 14-00146, *Order Approving Settlement*, Exh. A, pp. 21-22 (November 4, 2015).

<sup>23</sup> Gregory K. Waller, Pre-Filed Direct Testimony, pp. 10-12 (February 1, 2019).

<sup>24</sup> *In re: Atmos Energy Corporation – 2018 ARM Reconciliation Filing*, Docket No. 18-00097, William H. Novak, Pre-Filed Direct Testimony, pp. 15-17 (January 9, 2019).

<sup>25</sup> Gregory K. Waller, Pre-Filed Direct Testimony, pp. 10-12 (February 1, 2019).

<sup>26</sup> *Id.* at 14.

<sup>27</sup> *See In re: Atmos Energy Corporation – 2018 ARM Reconciliation Filing*, Docket No. 18-00097, Transcript of Hearing, p. 66 (April 15, 2019) (order pending).

Atmos' original proposal. Utilizing the true-up amount from Docket No. 18-00097 results in a revenue deficiency of \$27,196.<sup>28</sup>

Mr. Dittmore testifies that he disagrees with the Company's use of a 6.5% state excise tax rate for computing tax expense and a composite state excise tax rate of 2.3% in determining ADIT balance. However, while Mr. Dittmore does not believe there to be rationale to justify the application of inconsistent excise tax rates to these categories, he does not propose an adjustment in this proceeding based upon his disagreement, as the ARM true-up filing will contain historic values for the net operating loss carryforward ("NOLC") and not contain the multiple methodologies present in this budget ARM.<sup>29</sup>

Further, Mr. Dittmore disagrees with the Company's use of a general allocator to determine the NOLC. He asserts that because the NOLC is allocated rather than identifying specific taxable loss to Tennessee operations, a modification to the Tennessee-specific ADIT balance should have no material impact on the allocation of the NOLC Asset to Tennessee. Mr. Dittmore testifies that the Company asserts that failure to adjust the NOLC Asset by a corresponding amount would result in a tax normalization violation of the Internal Revenue Code. Rather than arguing the merits of the tax normalization violation asserted by the Company, Mr. Dittmore states that the Consumer Advocate notes its concern with this issue and will await the natural resolution of the issue within the future reconciliation docket.<sup>30</sup>

### **Atmos Rebuttal**

Mark A. Martin submitted rebuttal testimony on behalf of Atmos. Mr. Martin states that Atmos agrees with the Consumer Advocate's calculation utilizing the (\$4,053,984) true-up amount adopted by the Commission in Docket No. 14-00146, which results in a revenue

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<sup>28</sup> David Dittmore, Pre-Filed Direct Testimony, pp. 1-3, Exh. DND-2, (April 8, 2019).

<sup>29</sup> *Id.* at 2-5.

<sup>30</sup> *Id.* at 5-8.



deficiency of \$27,196.<sup>31</sup> In addition, Mr. Martin states that because the Company forecasts bad debt expense for the forward-looking test year based on forecasted revenues, the modification of the reconciliation revenue requirement has a “flow-through” impact on bad debt expense. Therefore, Atmos flowed through the adjusted bad debt expense resulting in a revenue deficiency of \$23,824.<sup>32</sup>

Further, Mr. Martin testifies that the Company agrees with the Consumer Advocate concerning the application of the statutory 6.5% excise tax rate to calculate both Income Tax Expense and ADIT, rather than utilizing the statutory excise tax rate to calculate Income Tax Expense and the composite state rate to calculate ADIT.<sup>33</sup> Atmos and the Consumer Advocate agreed on the use of the statutory rate going forward for both tax expense and ADIT in the Settlement Agreement filed in Docket No. 18-00097.<sup>34</sup> The Company also agrees with the Consumer Advocate that any financial impact of the calculation of the NOLC asset will be fully resolved in the reconciliation docket.<sup>35</sup>

Mr. Martin also provides exhibits to his testimony, which includes a Proof of Revenues and Calculation of Rates. This schedule demonstrates a rate change consisting of approximately \$0.001 per therm commodity change for customers, resulting in an increase of total revenues by \$23,874.<sup>36</sup>

### **THE MAY 20, 2019 HEARING**

A Hearing in this matter was held before the voting panel of Commissioners during the

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<sup>31</sup> Pre-Filed Rebuttal Testimony, Mark A. Martin, pp. 3-4 (April 29, 2019).

<sup>32</sup> *Id.* at 4.

<sup>33</sup> *Id.* at 5.

<sup>34</sup> *In re: Atmos Energy Corporation Annual Reconciliation of Annual Review Mechanism*, Docket No. 18-00097, *Stipulation and Settlement Agreement*, p. 6 (March 25, 2019). *See also In re: Atmos Energy Corporation Annual Reconciliation of Annual Review Mechanism*, Docket No. 18-00097, Transcript of Hearing, p. 66 (April 15, 2019) (approving *Stipulation and Settlement Agreement*) (order pending).

<sup>35</sup> Pre-Filed Rebuttal Testimony, Mark A. Martin, pp. 6-7 (April 29, 2019).

<sup>36</sup> *Id.* at 3, Exh. MAM-R-1 at 51-53.

regularly scheduled Commission Conference on May 20, 2019, as noticed by the Commission on May 10, 2019. Participating in the Hearing were the following parties:

Atmos Energy Corporation – A. Scott Ross, Esq., 1201 Demonbruen St., Ste. 100, Nashville, TN 37203.

Consumer Protection and Advocate Division – Vance Broemel, Esq., and Karen Stachowski, Esq., Office of the Tennessee Attorney General and Reporter, P.O. Box 20207, Nashville TN 37202-0207.

Prior to the Hearing, the parties jointly notified the Commission that there were no outstanding procedural matters and that there are no disputed or contested issues with regard to the *Petition*.<sup>37</sup> During the Hearing, Mr. Mark A. Martin and Mr. David Dittmore summarized their pre-filed testimony, and were subject to questioning before the panel and by TPUC staff. Mr. Gregory K. Waller and Ms. Jennifer Story were made available for questions during the Hearing. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

### **FINDINGS AND CONCLUSIONS**

Following the conclusion of the Hearing, the panel considered the Company's 2019 ARM Filing. Upon review of the evidentiary record in this matter, the panel found that Atmos' 2019 ARM Filing is consistent with the previously approved methodologies and the provisions of Tenn. Code Ann. § 65-5-103(d)(6). Thereafter, the panel voted unanimously to approve Atmos' *Petition* resulting in a total revenue deficiency of \$5,114,398 for the forward-looking test year ending May 31, 2020. The panel further found that this revenue deficiency is offset by (1) the annual rate review mechanism reconciliation amount of (\$4,053,984) approved in Docket No. 18-00097, and (2) the annual amortization of excess ADIT resulting from the 2017 Tax Cuts and Jobs Act, approved in Docket No. 18-00034, in the amount of (\$1,036,590). These offsets

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<sup>37</sup> Letter to Chairman Morrison from A. Scott Ross (May 3, 2019).

result in a total revenue deficiency of \$23,824 to be recovered beginning June 1, 2019.

The panel further found that, as the parties agreed, the issues regarding the state excise tax rate and the net operating loss carryforward shall be resolved in the next annual rate review reconciliation filing.

Finally, the voting panel found that the annual rate review mechanism continues to benefit both consumers and Atmos, and as such remains in the public interest. The mechanism allows the Company a timely recovery of its investment and operating expenses, which ensures safe and reliable service, while the consumers benefit through the reduction of rate case and legal expenses.

**IT IS THEREFORE ORDERED THAT:**

1. The 2019 ARM Forward-Looking Filing and revised rates, as amended, filed by Atmos Energy Corporation are approved.
2. Approval of Atmos Energy Corporation's 2019 ARM Forward-Looking Filing and tariffs does not preclude or limit substantive review of the Annual Reconciliation to the Authorized Return on Equity to determine the reasonableness and prudence of expenses and costs recovered under the Annual Rate Review Mechanism and to ensure that service rates established by Atmos Energy Corporation pursuant to the Annual Rate Review Mechanism remain just, reasonable and in the public interest.
3. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order.

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

**Chairman Robin L. Morrison, Commissioner John Hie and Commissioner David F. Jones concur. None dissent.**

**ATTEST:**



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**Earl R. Taylor, Executive Director**