

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

December 2, 2021

IN RE:)	
)	
PETITION OF ATMOS ENERGY CORPORATION FOR)	DOCKET NO.
APPROVAL OF TARIFF CHANGE TO PERFORMANCE)	21-00104
BASED RATEMAKING RIDER)	

ORDER GRANTING APPROVAL OF TARIFF CHANGE TO PERFORMANCE BASED
RATEMAKING MECHANISM RIDER

This matter came before Chairman Kenneth C. Hill, Vice Chairman Herbert H. Hilliard, Commissioner Robin L. Morrison, Commissioner John Hie and Commissioner David F. Jones of the Tennessee Public Utility Commission (“Commission” or “TPUC”) during the regularly scheduled Commission Conference held on November 1, 2021, to consider the *Petition for Approval of Tariff Change to Performance Based Ratemaking Mechanism Rider* (“*Petition*”) filed on September 3, 2021, by Atmos Energy Corporation (“Atmos”, “Company”).

THE PETITION

On September 3, 2021, Atmos filed the *Petition* requesting the removal of the “RFP Procedures for Selection of Asset Manager and/or Gas Provider” requirements language from the Company’s tariff. Such provisions, intended to address potential conflicts of interests, were required when an affiliate of Atmos routinely submitted responses to Requests for Proposals (“RFPs”) for management of the Company’s gas assets. According to the *Petition*, there is no longer a need for such provisions as the Company no longer has an affiliate natural gas marketer.¹

¹ *Petition*, p. 2 (September 3, 2021).

With the sale of the affiliate, the Company now only receives responses to its RFPs from unaffiliated third parties.²

Mr. Christopher M. Hunt, Gas Supply Representative for Atmos, filed direct testimony in support of the Company's *Petition*. Mr. Hunt assists in the issuance of RFPs to select the Company's Asset Manager and gas suppliers.³ The PBRM ("Performance Based Ratemaking Mechanism") tariff enumerates the RFP procedures Atmos must follow and requires the Company to file a petition outlining its compliance with these procedures for the Commission's approval no later than December 1st for asset management agreements effective the following April 1st. According to Mr. Hunt, RFP procedures were added to the PBRM tariff over concerns regarding potential conflicts of interest. Nevertheless, the latest RFP in which the marketing affiliate participated in the bidding was in October 2015.⁴ Atmos sold its gas marketing affiliate in 2017 and Mr. Hunt testified that the concerns that led to the inclusion of the existing RFP Procedures no longer exist.⁵

Atmos stated that removing the RFP Procedures from the PBRM tariff would not restrict the Commission's ability to review the Company's decision-making when awarding asset management contracts pursuant to the RFP process. A comprehensive review of all transactions and activities covered by the PBRM tariff is conducted every three years by an outside consultant, and the awarding of natural gas supply and asset management contracts would fall within the scope of that review. Additionally, the tariff specifically states Commission Staff may continue the

² *Id.*

³ Christopher M. Hunt, Pre-Filed Direct Testimony, p. 2 (September 3, 2021).

⁴ *Id.* at 2-3.

⁵ *Id.* at 3.

annual audits of performance-based ratemaking and the Actual Cost Adjustment (“ACA”) account without limitation.⁶

Additionally, Mr. Hunt stated the current tariff language necessitates the Company issuing RFPs far in advance of the April 1st contract starting date due to publishing requirements and the need to obtain formal Commission approval that the RFP Procedures were followed. While Atmos customarily enters into contracts beginning on April 1st, the tariff does not allow the Company flexibility to deviate from this time frame.⁷ In summary, Mr. Hunt testified that approving the tariff change would provide greater flexibility to Atmos and the Company’s contract decisions would remain subject to Commission oversight.⁸ No party requested to intervene in this docket.

THE HEARING

The hearing in this matter was noticed by the Commission on October 22, 2021 and held during the regularly scheduled Commission Conference on November 1, 2021. Participating in the Hearing were:

Atmos Energy Corporation – Erik C. Lybeck, Esq., Neal & Harwell, 1201
Demonbreun Street, Suite 1000, Nashville, Tennessee 37203

Mr. Christopher M. Hunt provided testimony and was available to answer any questions. Members of the public were given an opportunity to offer comments, but no one sought recognition to do so.

FINDINGS AND CONCLUSIONS

Based upon a review of the record in its entirety and consideration of the Company’s presentation, the panel found the proposed tariff change to the Company’s Performance Based Ratemaking Mechanism Rider to remove the section related to RFP Procedures for the Selection

⁶ *Id.*

⁷ *Id.* at 4.

⁸ *Id.*

of Asset Manager and/or Gas Provider to be reasonable under the facts in this docket and voted unanimously to approve the *Petition*. The Company is directed to file a tariff consistent with the Commission's decision.

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Approval of Tariff Change to Performance Based Ratemaking Mechanism Rider* filed on September 3, 2021, by Atmos Energy Corporation is approved.
2. Any party aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.
3. Any party 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 (60) days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman Kenneth C. Hill,
Vice Chairman Herbert H. Hilliard,
Commissioner Robin L. Morrison,
Commissioner John Hie, and
David F. Jones concurring.**

None dissenting.

ATTEST:



Earl R. Taylor, Executive Director