

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

May 31, 2022

IN RE:)	
)	
PETITION OF ATMOS ENERGY CORPORATION FOR APPROVAL OF ITS 2022 ANNUAL RATE REVIEW FILING PURSUANT TO TENN. CODE ANN. § 65-5-103(d)(6)))))))	DOCKET NO. 22-00010

**ORDER GRANTING MOTION TO LIMIT CROSS-EXAMINATION,
ACKNOWLEDGING FILING AS NEW PETITION AND SETTING NEW STATUTORY
DEADLINE**

This matter came before the Hearing Officer for consideration of the *Joint Motion to Limit Cross-Examination* (“*Joint Motion*”) filed on April 29, 2022, by Atmos Energy Corporation (“Atmos” or the “Company”) and the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General (“Consumer Advocate”). The *Joint Motion* seeks to limit the scope of cross-examination of the parties’ witnesses to certain issues during the Hearing held on May 9, 2022. The Parties stated that the Direct Testimony of Dave Dittemore filed on April 9, 2022, raised certain objections to portions of the calculations contained in the *Petition of Atmos Energy Corporation for Approval of its 2022 Annual Rate Review Filing Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)* (“*Petition*”) filed on February 1, 2022.¹ On April 18, 2022, Atmos filed Rebuttal Testimony of Joe Christian and William Matthews in response to the issues raised by the Consumer Advocate. In the *Joint Motion* the parties maintain:

1. As set forth more fully in the testimony, the Parties are in agreement regarding the Company's Annual Rate Review analysis

¹ *Joint Motion*, p. 1 (April 29, 2022).

with the exception of the following three issues:

- a. Whether it is appropriate to include depreciation and return on equity, non-cash items, in a lead-lag analysis for use in including a cash working capital allowance in rate base;
- b. Whether the Company's short term debt cost of 69.89% is reasonable; and
- c. Whether the Company properly excluded its State Net Operating Loss associated with Winter Storm Uri net of the Federal Benefit, in response to an issue raised in discovery.²

According to the *Joint Motion*, the parties seek to limit cross-examination of witnesses at the Hearing to the foregoing three issues because it will “expedite preparations for the hearing and will increase efficiency for both the Commission and the Parties.”³ The Hearing Officer found that the parties were in agreement and that the request was reasonable therefore, the Hearing Officer granted the request during the Pre-Hearing Conference held by telephone with the parties on May 2, 2022.

In addition, during the Pre-Hearing Conference, the Hearing Officer determined that due to significant changes made to the initial *Petition* filed by Atmos, the *Petition* should be deemed a new *Petition* and the statutory deadline should be reset. The Hearing would proceed as planned on May 9, 2022. On March 1, 2022, in response to Consumer Advocate discovery requests, Atmos reduced its projected revenue deficiency from \$3,662,160 to \$2,269,523. The reduction in revenue included removing costs related to Winter Storm Uri from state-net operating loss, removing Supplemental Executive Bonus Plan/ Supplemental Executive Retirement Plan (“SEBP/SERP”) items from Accumulated Deferred Income Tax (“ADIT”), excluding interest and Removal Work in Progress (“RWIP”) interest from average regulatory assets, adjustment to short-term debt rate, removing legal fees not related to Tennessee, and removing capitalized SERP costs. In addition, Atmos made further changes to the revenue deficiency in the Rebuttal

² *Id.* at 2.

³ *Id.*

Testimony filed on April 18, 2022, resulting in a revenue deficiency of \$2,465,759. Because of the significant changes to the *Petition*, the Hearing Officer finds there is insufficient time for Commission Staff to analyze the impact of the changes Atmos made to its *Petition* and make a recommendation to the Commissioners by the statutory deadline, which would require a determination by June 1, 2022.

Pursuant to Tenn. Code Ann. § 65-5-103(d)(1), the Commission has 120 days from the initial filing of a petition for an alternative regulatory method, such as an annual review of rates, by a public utility to make a determination whether it should be approved. Consistent with the determination made by the Commission in Docket No. 13-00130, “material changes made to a petition or the filing of an amended petition by a utility should be treated as a new petition under the statute,”⁴ The Hearing Officer concludes that the changes Atmos made to the *Petition* should cause it to be deemed a new Petition. With this determination, the 120-day statutory deadline begins with the filing of the new Petition, and the deadline for the Commission to make a determination in this docket is 120 days from the filing of the most recent changes to the revenue requirement, which was April 18, 2022. With the new deadline in place, Commission Staff is committed to providing an expedited review of Atmos’s new Petition so that the matter is ripe for deliberations as soon as possible.

IT IS THEREFORE ORDERED THAT:

1. The *Joint Motion to Limit Cross-Examination* is granted.
2. The substantial changes made to the *Petition of Atmos Energy Corporation for Approval of its 2022 Annual Rate Review Filing Pursuant to Tenn. Code Ann. § 65-5-103(d)(6)*

⁴ See *In Re: Petition of Tennessee-American Water Company for Approval of a Qualified Infrastructure Investment Program, an Economic Development Investment Rider, a Safety and Environmental Compliance Rider and Pass-Throughs for Purchased Power, Chemicals, Purchased Water, Wheeling Water Costs, Waste Disposal, and TRA Inspection Fee*, Docket No. 13-00130, *Order Approving Amended Petition*, p. 3 (January 27, 2016).

by Atmos Energy Corporation have rendered it a new Petition for consideration by the Commission.

3. The 120-day statutory deadline set forth in Tenn. Code Ann § 65-5-103(d)(1) began to run on April 18, 2022, for the new Petition.

4. Any party aggrieved by the decision of the Hearing Officer in this matter may file a Petition for Reconsideration within fifteen days of the date of this Initial Order.

A handwritten signature in black ink that reads "Monica Smith-Ashford". The script is cursive and fluid.

Monica Smith-Ashford, Hearing Officer