

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

October 30, 2023

IN RE:	)	
	)	DOCKET NO.
PETITION OF ATMOS ENERGY	)	23-00026
CORPORATION FOR APPROVAL OF	)	
A TENNESSEE HEDGING PROGRAM	)	

---

ORDER APPROVING TENNESSEE HEDGING PROGRAM

---

This matter came before Chairman Herbert Hilliard, Vice Chairman David Jones, Commissioner Robin L. Morrison, Commissioner Clay R. Good, and Commissioner David Crowell of the Tennessee Public Utility Commission, (“TPUC” or “Commission”), the voting panel assigned to this docket, during a regularly scheduled Commission Conference held on September 11, 2023, for consideration of the *Petition for Approval of a Tennessee Hedging Program* (“*Petition*”) filed by Atmos Energy Corporation (“Atmos,” “Company,” or “Petitioner”) on April 11, 2023. In its *Petition*, Atmos requests the Commission’s approval of a Hedging Program that would allow Atmos to recover costs of hedging activities related to procurement of its gas supply.

**BACKGROUND AND PETITION**

Atmos is a public utility, subject to the Commission’s jurisdiction, that transports, distributes, and sells natural gas within the State of Tennessee. On April 11, 2023, Atmos filed a *Petition* seeking the Commission’s approval of a Hedging Program whose purpose is “to provide natural gas price stability.”<sup>1</sup> Included with the *Petition* are proposed tariff sheets to reflect the

---

<sup>1</sup> *Petition*, p. 2 (April 11, 2023).

creation of the Hedging Program and the Pre-Filed Testimony of Shawn Audibert, Director of Regional Gas Supply and Services.<sup>2</sup>

Mr. Audibert testifies that Atmos is permitted to enter into hedges, but since there is no current mechanism to recover the costs associated with hedges, the Company presently does not implement any hedges. However, any benefits of hedges would be reflected in the customers' Purchase Gas Adjustment ("PGA") mechanism. He further states that in jurisdictions in which the Company hedges, all of the approved hedging benefits and costs flow through to customers.<sup>3</sup>

Describing the Hedging Program, Mr. Audibert states that Atmos proposes to hedge a targeted percentage of natural gas purchases for two winter seasons in advance, not to exceed 50% of the forecasted winter normal purchases. Storage withdrawals will not be considered as winter purchases. He also states that this hedging timeframe is consistent with the time horizon that the Company hedges for in Colorado, Louisiana, Mississippi, and Virginia. According to Mr. Audibert, the Company believes that hedging for two winter seasons, rather than just one, provides additional price stability.<sup>4</sup>

To meet its targeted hedging percentage, Mr. Audibert states that Atmos proposes an annual hedging budget, but that, depending on the cost of financial instruments, the Company may not have to use the entire annual budget to provide adequate price stability. Atmos proposes to use deferred premium call options for its hedging activities. These instruments settle in the winter, and all of the costs and benefits would occur during the winter season. The Company would flow the Hedging Program impacts through a separate component of the PGA, which would essentially treat hedging as a component of gas costs. The Company would prorate the percentage of hedges based on forecasted winter normal purchases for each of its PGA areas.<sup>5</sup>

---

<sup>2</sup> Shawn M. Audibert, Pre-Filed Direct Testimony (April 11, 2023).

<sup>3</sup> *Id.* at 2-3.

<sup>4</sup> *Id.* at 3-4.

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

In addition, Mr. Audibert states that Atmos proposes to use a third-party advisor, Gelber & Associates, to assist in deciding the timing, volume, and type of hedges. Atmos asserts that it will meet with Commission Staff annually to review the results of the Hedging Program and discuss market conditions and potential program adjustments.<sup>6</sup> The Consumer Advocate Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) will be included as a participant in the annual hedging reviews.<sup>7</sup>

Finally, Mr. Audibert notes that in the Company’s most recent triennial review concluded in June 2022, the review consultant found that if hedging were approved by the Commission, it would be appropriate to exclude hedging gains and losses from the Performance Based Ratemaking Mechanism (“PBRM”).<sup>8</sup> Accordingly, in addition to the hedging tariff pages presented with Mr. Audibert’s testimony, Atmos submitted a revised PGA tariff clarifying that “approved costs associated with hedging activities” are included in the definition of “Gas Costs” under the PGA.<sup>9</sup> Mr. Audibert also submitted a revised PBRM tariff striking “the use of financial instruments or private contracts in managing gas costs” from the Gas Procurement Incentive Mechanism (“GPIM”).<sup>10</sup>

The Consumer Advocate filed a *Petition to Intervene* on May 3, 2023. The Hearing Officer granted the Consumer Advocate’s intervention by order entered on June 22, 2023. Subsequently, the Consumer Advocate filed a letter indicating that there were no outstanding procedural issues or contested issues remaining between the parties, and that the Consumer Advocate would not be filing pre-filed testimony.<sup>11</sup>

---

<sup>6</sup> *Id.* at 4.

<sup>7</sup> See Letter to Chairman Herbert H. Hilliard Re: No Outstanding Procedural Issues from Mason C. Rush, Consumer Advocate (June 5, 2023).

<sup>8</sup> Shawn M. Audibert, Pre-Filed Direct Testimony, p. 5 (April 11, 2023).

<sup>9</sup> *Id.* at Exh. SMA-2, p. 1.

<sup>10</sup> *Id.* at Exh. SMA-2, p. 2.

<sup>11</sup> Letter to Chairman Herbert H. Hilliard Re: No Outstanding Procedural Issues from Mason C. Rush, Consumer Advocate (June 5, 2023).

## **THE HEARING**

A hearing in this matter was held before the voting panel of Commissioners during the regularly scheduled Commission Conference on September 11, 2023, as noticed by the Commission on September 1, 2023. Participating in the hearing were:

Atmos Energy Corporation – Evan Rothey, Esq., Sims|Funk, PLC, 3322 West End Ave., Ste. 200, Nashville, Tennessee; Shawn Audibert, Director of Regional Gas Supply and Services, 1100 Poydras St., Ste. 3400, New Orleans, Louisiana.

Consumer Advocate – Victoria Glover, Esq., Office of the Tennessee Attorney General, P.O. Box 20207, Nashville, Tennessee.

During the hearing, Shawn Audibert, Director of Regional Gas Supply and Services for Atmos, presented testimony on behalf of the Company and adopted his Pre-Filed Direct Testimony. He offered no corrections or amendments to his Pre-Filed Testimony or the Company's filings and provided a description of the Hedging Program. Mr. Audibert was subject to questions from the voting panel of Commissioners. Members of the public were given an opportunity to offer comments, at which time, no comments were submitted.

## **FINDINGS AND CONCLUSIONS**

Hedging is a tool commonly used by a utility to reduce its exposure to unanticipated price increases in natural gas. This practice is beneficial to the utility's customers during periods of rising market price volatility or in response to events that may cause price increases. Hedging transactions are complex and therefore require certain expertise and knowledge of gas supply and energy markets. Mr. Audibert testified that Atmos will utilize a third-party advisor to assist in the determination of timing, volume, and type of hedging instruments to purchase. While the Consumer Advocate avers that the cost of the third-party advisor would not be recovered through the PGA but included in the Annual Rate Review Mechanism ("ARM"), Atmos states that it currently utilizes the third-party advisor for gas supply consulting in multiple jurisdictions. The voting panel found that the amount of the third-party advisor's cost allocated to Tennessee is immaterial.

The third-party consultant performing triennial reviews of Atmos has recognized the validity of an appropriate hedging program. It is noted, however, that in order for customers to gain the benefit from any hedging gains that may be posted to the Actual Cost Adjustment (“ACA”) account, customers must bear the costs of the Hedging Program as well as all of the losses associated with the closing of hedging instruments. Because hedging is designed to protect against rising gas prices, customer costs will outweigh any benefit if market prices remain stable or decline during the hedging timeframe. The Commission determined that a continuous monitoring and evaluation of the Hedging Program is prudent in order to determine whether costs become too great in comparison to the potential benefit of the Hedging Program.

The voting panel of Commissioners determined that in addition to the Company’s annual presentation to the Commission and Consumer Advocate concerning the performance of its hedging activities, Atmos shall submit a written annual report detailing the hedging transactions and related costs, benefits, and performance of hedging activities on a cumulative and per-winter season basis. In addition, the Commission found that in subsequent triennial reviews, the third-party consultant shall examine and report on the costs, benefits, and performance of the Company’s Hedging Program for the review period and provide an evaluation of the effectiveness of the Hedging Program for reducing the risk of exposure to market price fluctuations. Additionally, the voting panel found that the Commission should monitor the Company’s hedging activities and, within five (5) years of this *Order*, determine whether the Hedging Program should be continued, modified or terminated, unless otherwise ordered by the Commission.

Based upon these findings, the voting panel found that Atmos’ proposed Hedging Program is in the public interest. The panel unanimously voted to approve the proposed Hedging Activities tariff, submitted on June 1, 2023 as revised Exhibit SMA-1, and the proposed revisions to the Company’s Purchase Gas Adjustment tariff and Performance Based Ratemaking Mechanism tariff, submitted on

April 11, 2023 as Exhibit SMA-2. The panel also unanimously voted to require Atmos to submit an annual written report on hedging activities on or before July 1<sup>st</sup> of each year and to require the triennial review to examine and report on the costs, benefits, performance, and effectiveness of the Company's Hedging Program. Finally, the voting panel unanimously voted to monitor and review the Hedging Program and to determine whether the Hedging Program should be continued, modified, or terminated within five (5) years of this order, unless otherwise determined and ordered by this Commission.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition for Approval of a Tennessee Hedging Program* filed by Atmos Energy Corporation is approved.
2. The proposed Hedging Activities tariff is approved.
3. The proposed revisions to the Purchase Gas Adjustment tariff are approved.
4. The proposed revisions to the Performance Based Ratemaking Mechanism are approved.
5. Atmos shall submit an annual written report on hedging activities, including the costs, benefits, and performance of hedging transactions on a cumulative and per-winter season basis on or before July 1<sup>st</sup> of each year.
6. The triennial review consultant shall examine and report on the costs, benefits, and performance of the hedging activities of Atmos Energy Corporation for the review period and evaluate the effectiveness of the Hedging Program for reducing the risk of exposure to market price fluctuation in triennial reviews subsequent to this order.
7. The Commission shall monitor the hedging activities of Atmos Energy Corporation and shall review and determine whether the Hedging Program should be continued, modified, or terminated within five (5) years of this order, unless otherwise ordered.

8. Any person who is 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.

9. 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 (60) days from the date of this Order.

**FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:**

**Chairman Herbert Hilliard,  
Vice Chairman David Jones  
Commissioner Robin L. Morrison,  
Commissioner Clay R. Good, and  
Commissioner David Crowell concurring.**

None dissenting.

**ATTEST:**

A handwritten signature in dark ink, appearing to read "Earl Taylor" with a stylized flourish or initials "abh" to the right.

---

**Earl R. Taylor, Executive Director**