

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

July 29, 2024

IN RE:)	
)	
PETITION OF ATMOS ENERGY CORPORATION)	DOCKET NO.
FOR APPROVAL OF ITS 2024 ANNUAL RATE)	24-00006
REVIEW FILING PURSUANT TO TENN. CODE)	
ANN. § 65-5-103(d)(6))	

ORDER APPROVING SETTLEMENT AGREEMENT REVISING 2024 ANNUAL RATE
REVIEW FILING

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones, Commissioner Clay R. Good, Commissioner Kenneth C. Hill, and Commissioner David Crowell of the Tennessee Public Utility Commission (“TPUC” or the “Commission”), the panel assigned to this docket, during a regularly scheduled Commission Conference held on May 20, 2024, for consideration of the *Stipulation and Settlement Agreement* (“*Settlement Agreement*”) filed by Atmos Energy Corporation (“Atmos”, “Atmos Energy”, or the “Company”) and the Consumer Advocate Division of Office of the Tennessee Attorney General and Reporter (“Consumer Advocate”) on April 29, 2024.

BACKGROUND

In Docket No. 14-00146, the Commission approved a settlement agreement between Atmos and the Consumer Advocate implementing for Atmos an Annual Rate Review Mechanism (“ARRM”) pursuant to Tenn. Code Ann. § 65-5-103(d)(6).¹ This mechanism allows for annual

¹ See *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*).

rate reviews by the Commission in lieu of a general rate case.² Pursuant to the *Order Approving Settlement* in Docket No. 14-00146, the twelve-month period ending September 30th of each year prior to the annual ARRM filing date of February 1st was 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 31st of each following year.³ Additionally, the Company was required to use the authorized return on equity as established in Docket No. 14-00146 or any subsequent general rate case.⁴

In addition to the annual rate review filing due by no later than February 1st of each year, a second step of the ARRM required the Company to file an Annual Reconciliation to the authorized return on equity by September 1st of each year.⁵ This filing was 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.⁶ The resulting rates would be effective on bills rendered on or after June 1st.⁷

Docket No. 18-00112 was opened to explore modifications to the Company's ARRM, and the Consumer Advocate and Commission Party Staff ("Party Staff") participated in the docket. The Company, Consumer Advocate, and Party Staff reached an agreement in Docket No. 18-00112 and filed the stipulation and settlement agreement on October 2, 2019. The Commission approved the settlement and found that the terms and procedures of the modified ARRM were reasonable and consistent with the provisions of Tenn. Code Ann. § 65-5-103(d)(6), and that the transition schedule from two annual filings to a single filing was reasonable and appropriate.⁸ In

² Tenn. Code Ann. § 65-5-103(d)(6).

³ *Atmos Rate Case*, Docket No. 14-00146, *Order Approving Settlement*, pp. 5-6 (November 4, 2015).

⁴ *Id.*

⁵ *Id.* at 5.

⁶ *Id.*

⁷ *Id.* at 7.

⁸ *In re: Docket to Investigate and Consider Modifications to Atmos Energy Corporation's Annual Rate Review Mechanism Under Tenn. Code Ann. § 65-5-103(d)(6)*, Docket No. 18-00112, *Order Approving Stipulation and Settlement Agreement*, pp. 9-10 (December 16, 2019).

addition, the Commission found that the modified ARRM continues to be in the public interest and will allow Atmos to timely recover its investment and operating expenses, while continuing to provide safe and reliable service to its customers.⁹ The Company's most recent ARRM filing was resolved through the approval of a settlement agreement in Docket No. 23-00008.¹⁰

THE 2024 TENNESSEE ANNUAL RATE REVIEW FILING

Atmos submitted the *2024 Tennessee Annual Rate Review Filing* ("2024 ARRM"), including the pre-filed direct testimony of William D. Matthews, Manager of Rates and Regulatory Affairs, on January 30, 2024. The 2023 ARRM filing proposed a \$20,389,622 revenue deficit supported by the requisite workpapers, schedules, testimony, attestation, and proposed tariff revisions. In pre-filed testimony in support of the filing, Mr. Matthews calculated Atmos' total cost of service as of September 30, 2023, the end of the historic test period, in the amount of \$212,481,913. According to Mr. Matthews, the Company's twelve-month revenue as of September 30, 2023, using current tariff rates and weather-normalized actual billing determinants is \$196,873,584, with the difference of these resulting in a Net Revenue Deficiency of \$15,608,329.¹¹

The Company's Annual Reconciliation Revenue Requirement ("ARRR") is a comparison of the Company's actual cost of service – excluding gas costs – for the test period and the Company's actual gross margin for the same period. According to Mr. Matthews, the ARRR calculation (including allowable carrying costs) for this ARRM filing results in a \$5,036,506 revenue requirement. In addition to the Company's computed Net Revenue Deficiency and its ARRR, Mr. Matthews noted that, per approved methodologies, he had included the \$255,213

⁹ *Id.*

¹⁰ *In Re: Petition of Atmos Energy Corporation For Approval of Its 2023 Annual Rate Review Filing Pursuant to Tenn. Code Ann. 65-5-103(d)(6)*, Docket No. 23-00008, *Order Approving Stipulation and Settlement Agreement* (June 22, 2023).

¹¹ William D. Matthews, Pre-Filed Testimony, pp. 3-4 (January 30, 2024).

credit associated with amortization of the Company's excess deferred income tax ("EDIT") liability. The net of these three amounts results in the Company's proposed Total Revenue Deficiency of \$20,389,622.¹²

In addition, Mr. Matthews provided individual explanations for each of the Company's eleven schedules included with this filing and provided an attestation that any adjustments (e.g., Generally Accepted Accounting Principles ("GAAP") pension expense accruals, incentive compensation amounts, and others as previously approved) reflected in the schedules are consistent with previously approved methodologies.¹³ Mr. Matthews confirmed the Company's ARRM filing reflects the new depreciation rates as approved by the Commission at its December 2023 conference in Docket 23-00050. As a result of the updated depreciation rates, the Company has extended the remaining life of its plant investment from thirty-five years to thirty-nine years. As the protected portion of the Company's EDIT is based on the remaining depreciable life of underlying plant assets, this adjustment impacts the calculation of its annual protected EDIT amortization credit. Mr. Matthews clarified the Company's amortization credits associated with unprotected Accumulated Deferred Income Tax ("ADIT") have been completely refunded to its customers after a three-year amortization period.¹⁴ Consistent with the previous ARRM filing, Mr. Matthews attested that the Company included an adjustment to remove the \$2.2 billion of debt associated with Winter Storm Uri. According to the Company, the adjustment is appropriate since Uri did not have an extraordinary impact on Tennessee's gas costs.¹⁵

According to Mr. Matthews, the Company's proposal and the recovery of the proposed

¹² *Id.* at 4.

¹³ *Id.* at 6-15.

¹⁴ *Id.* at 11-13.

¹⁵ *Id.* at 14.

revenue deficiency is consistent with its ARRM tariff and approved methodologies.¹⁶

POSITION OF THE CONSUMER ADVOCATE

On behalf of the Consumer Advocate, Mr. William H. Novak submitted pre-filed direct testimony on April 4, 2024. Based upon his review, Mr. Novak testified that the Company's filing reflects the mechanism's approved methodologies. Nevertheless, Mr. Novak testified that the Company's filing contains some errors and miscalculations related to the Company's proposed Other Revenues and its Cost of Capital.¹⁷

In Docket No. 23-00008, Atmos agreed to a settlement agreement authorizing the Company to reinstate its forfeited discount and miscellaneous service charges, classified as "Other Revenue," to its customers effective July 2023.¹⁸ Atmos had previously halted these charges in response to the Commission's 2020 pandemic-related directive for public utilities to suspend disconnections for customer nonpayment. According to Mr. Novak, Atmos included only a partial year's Other Revenues of \$171,609, from the period of July 2023 through September 2023, in its filing. Mr. Novak proposed a full year of these Other Revenues should be included in the Company's filing, resulting in the calculation of the Company's Other Revenues for the 2024 ARRM filing in the amount of \$1,239,248 from its most recent rate case, as opposed to the \$171,609 partial year amount proposed by the Company in this year's ARRM filing.¹⁹

For consistency, Mr. Novak recommended the Company adopt its forfeited discount rate of 1.0971% from that last rate case as a component of the revenue conversion factor in its current ARRM filing. After adjusting the Other Revenue amounts and increasing the revenue conversion

¹⁶ *Id.* at 15-16.

¹⁷ William H. Novak, Pre-Filed Direct Testimony, pp. 6-7 (April 4, 2024).

¹⁸ *Id.* at 7.

¹⁹ *Id.* at 8.

factor, Mr. Novak's proposed adjustment to the Company's requested revenue deficiency was a \$1,271,171 decrease.²⁰

Next, Mr. Novak recommended a modest increase in the Company's proposed cost of capital from 7.62% to 7.64%. According to Mr. Novak, the Company inadvertently understated its short-term debt cost by \$50,000 and included the long-term portions of capital leases in the computation of its cost of capital. The impact of including the full cost of short-term debt and omitting the capital lease amounts is a 0.02% increase in the Company's cost of capital. After adjusting Atmos' cost of capital, Mr. Novak's proposed adjustment to the Company's requested revenue deficiency was a \$164,674 increase.²¹

Finally, Mr. Novak included a \$1,018 reduction to the Company's requested revenue shortfall, which he labels "Other Miscellaneous Adjustments" for which Mr. Novak did not provide any explanation.²² Mr. Novak calculated his recommended adjustments to the Company's original submission result in a revenue deficit of \$19,282,107 for the twelve months ended September 30, 2023.²³

REBUTTAL TESTIMONY OF THE COMPANY

In pre-filed rebuttal testimony filed on April 22, 2024, Mr. Matthews addressed the Consumer Advocate's recommendations. Mr. Matthews testified that the Company agrees with Mr. Novak's proposed adjustment to its cost of capital but disagreed with his other proposed adjustments to the Company's filed revenue deficiency.²⁴

²⁰ *Id.* at 7-9.

²¹ *Id.* at 9-10.

²² *Id.* at 11.

²³ *Id.*

²⁴ William D. Matthews, Pre-Filed Rebuttal Testimony, pp. 1-2 (April 22, 2024).

Mr. Matthews disagreed with Mr. Novak's proposed \$1,271,171 adjustment to restore its Other Revenues (i.e., forfeited discounts and miscellaneous service charges) amount and its forfeited discount conversion factor for its test period from the Company's previous rate case.²⁵ According to Mr. Matthews, the proposed adjustment is not consistent with the Company's approved methodologies in that it ignores the true-up reconciliation process. Mr. Matthews testified that the Company complied with the settlement agreement in Docket No. 23-00008 to reinstate its forfeited discounts and miscellaneous service charges to its customers during the test period.

Furthermore, Mr. Matthews argued that, though the Company's test period in this filing includes these revenues for only three months, future filings will include a full year's worth and the revenue reconciliation process would follow approved methodologies via the test period's true-up process.²⁶ Mr. Matthews further testified that the Company's computation of the forfeited discount conversion factor is consistent with approved methodologies since it uses the test period's actual forfeited discounts as a percentage of total revenue.²⁷

With respect to Mr. Novak's recommendation that the Company's cost of capital should be increased from 7.62% to 7.64%, Mr. Matthews agrees with the proposal.²⁸ The Company inadvertently understated its short-term debt cost by \$50,000 and included the long-term portions of capital leases in the computation of its approved cost of capital. Though the Parties agree on this adjustment, Mr. Matthews quantified the amount of the associated increase in its filed revenue deficiency as \$166,477, as opposed to Mr. Novak's calculation of \$164,674.²⁹

²⁵ *Id.* at 5.

²⁶ *Id.* at 5-6.

²⁷ *Id.* at 6-7.

²⁸ *Id.* at 4.

²⁹ *Id.* at 2-4.

With respect to Mr. Novak's Other Miscellaneous Adjustments reduction of \$1,018 to the Company's filed revenue shortfall, Mr. Matthew's disagreed due to a lack of supporting details and the overall immateriality of the proposed adjustment.³⁰ Finally, Mr. Matthews expressed the Company's opposition to Mr. Novak's proposed rate design. Mr. Matthews states that, although the difference from the Company's recommended design is relatively minor, Mr. Novak's recommendation lacks compliance with approved methodologies since it shifts proportionately more of the revenue deficiency to volumetric charges than to base charges across the Company's various rate schedules.³¹

In summary, Mr. Matthews presented the Company's revised revenue deficit in the amount of \$20,556,100, representing a slight increase from its initial calculation of \$20,389,622 in the 2024 ARRM filing.³²

SETTLEMENT AGREEMENT

On April 29, 2024, the parties filed the *Settlement Agreement*, in which the Company and the Consumer Advocate agreed to four adjustments, three of which reduce the originally proposed \$20,389,622 revenue shortfall to a net revenue deficit of \$19,415,875. For the fourth adjustment, the Parties have stipulated that the revenue deficit would be recovered via both base and usage charges consistent with the methodology proposed by the Consumer Advocate in Mr. Novak's testimony.³³

The first adjustment is an agreement by the Parties to make a full-year adjustment for Other Revenues rather than only three months. The Parties agreed to use the Consumer Advocate's proposal to incorporate the amount of Other Revenues used in the Company's most recent rate

³⁰ *Id.* at 8.

³¹ *Id.* at 7-8.

³² *Id.* at 9.

³³ *Settlement Agreement*, pp.2-3, paragraph 5 (April 29, 2024).

case in Docket No. 14-00146. The Parties also agreed to use the Company's proposed forfeited discount conversion factor since it is based on the methodology that was approved in the Company's past ARRM docket, 18-00112.³⁴ The impact of this adjustment to the Company's originally proposed revenue deficit is a \$1,137,403 reduction.³⁵

The second adjustment is the Company's correction of errors in both its short- and long-term debt cost rates to match those proposed by the Consumer Advocate. This adjustment increases the Company's proposed revenue requirement by \$164,674.³⁶ The third adjustment is Company's acceptance of \$1,018 in various miscellaneous reductions to its originally proposed revenue shortfall. These miscellaneous reductions were proposed by the Consumer Advocate in its testimony as filed on April 4, 2024.³⁷ Finally, the Parties agreed to divide the revenue requirement between the Company's base and volumetric customer rates by employing the methodology proposed by the Consumer Advocate in its testimony filed on April 4, 2024. This breakout by rate schedule is demonstrated in Exhibits A and B, as attached to the *Settlement Agreement*.³⁸

Applying these adjustments to the Company's originally filed revenue deficiency of \$20,389,622 results in a settled revenue deficiency of \$19,415,875, as demonstrated in Exhibit B of the *Settlement Agreement's* revenue requirement model.

THE HEARING

The hearing on the merits was publicly noticed by the Commission on May 10, 2024, and held during the regularly scheduled Commission Conference on May 20, 2024. Appearances were made by the following:

³⁴ *Id.* at .2-3.

³⁵ *Id.* at Exhibit B.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at Exhibit A.

Atmos Energy Corporation. – Erik Lybeck Esq., Sims & Funk, PLC, 3322 West End Ave., #200 Nashville, Tennessee 37203.

Consumer Advocate Division – Shilina B. Brown, Esq. Consumer Advocate Division of the Office of the Tennessee Attorney General and Reporter, Post Office Box 20207, Nashville, Tennessee, 37219.

The panel heard testimony by Mr. William D. Matthews concerning the *Settlement Agreement*. Members of the public were given an opportunity to offer comments, but no one sought recognition to comment.

FINDINGS & CONCLUSIONS

After review of the record in its entirety, the panel voted unanimously to approve the *Stipulation and Settlement Agreement* filed by the Parties on April 29, 2024, including the Parties' agreed-upon \$19,415,875 net revenue deficiency presented in Schedule 1 of the *Settlement Agreement's* Exhibit B. This amount consists of (1) a forward-looking revenue deficiency of \$14,595,962 at September 30, 2023; (2) an offsetting \$255,213 credit for amortization of excess accumulated deferred income taxes associated with the 2017 Tax Cuts and Jobs Act; and (3) a revenue deficiency of \$5,075,126 resulting from the test year's annual reconciliation revenue requirement calculation.

Further, in accordance with the *Settlement Agreement*, the panel voted unanimously to approve the proposed rate design, as presented in Exhibit A and Exhibit B, Schedule 11-3. This rate design permits the Company to collect its revenue deficit through both fixed and volumetric customer charges. Finally, the panel found that the Company's annual rate review filing continues to be in the public interest by allowing Atmos Energy to timely recover its investment and operating expenses, while promoting safe and reliable natural gas service to its customers.

IT IS THEREFORE ORDERED THAT:

1. The *Stipulation and Settlement Agreement* filed by Atmos Energy Corporation and

the Consumer Advocate Division of the Tennessee Attorney General and Reporter on April 29, 2024, is APPROVED.

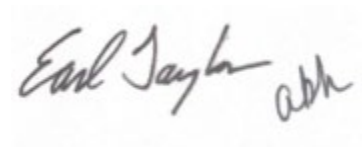
2. Atmos Energy Corporation shall file tariffs reflecting this decision.
3. Any party aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen days from the date of this Order.
4. Any party aggrieved by the Commission's decision 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 days from the date of this Order.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

**Chairman Herbert H. Hilliard,
Vice Chairman David F. Jones,
Commissioner Clay R. Good,
Commissioner Kenneth C. Hill, and
Commissioner David Crowell concurring.**

None dissenting.

ATTEST:

A handwritten signature in dark ink, appearing to read "Earl Taylor" with a stylized flourish and the initials "abh" written below it.

Earl R. Taylor, Executive Director