

Decision No. R23-0644-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22AL-0348G

IN THE MATTER OF ADVICE LETTER NO. 584 FILED BY ATMOS ENERGY CORPORATION TO REVISE ITS COLORADO P.U.C. NO. 7 TARIFF TO PLACE INTO EFFECT CHANGES TO THE COMPANY'S ANNUAL REVENUES AND RECOVERY OF RATE CASE EXPENSES, TO BECOME EFFECTIVE SEPTEMBER 5, 2022.

PROCEEDING NO. 23AL-0235G

IN THE MATTER OF COMPLIANCE ADVICE LETTER NO. 595 FILED BY ATMOS ENERGY CORPORATION IN COMPLIANCE WITH DECISION NO. C23-0293 IN PROCEEDING NO. 22AL-0348G TO IMPLEMENT A BASE RATE REVENUE REQUIREMENT TO DECREASE EXPENSES, TO BECOME EFFECTIVE MAY 13, 2023.

**INTERIM DECISION OF ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
GRANTING UNOPPOSED JOINT MOTION, ADMITTING
EXHIBITS INTO EVIDENCE, VACATING REMOTE
HEARING, AND ESTABLISHING DEADLINE FOR
STATEMENTS OF POSITION**

Mailed Date: September 27, 2023

I. STATEMENT

A. Procedural Background

1. On August 5, 2022, Atmos Energy Corporation (Atmos) filed Advice Letter No. 584 with tariff sheets for its base rate schedules for natural gas utility service to Colorado customers. Atmos' filing initiated Proceeding No. 22AL-0348G.

2. The parties to Proceeding No. 22AL-0348G were Atmos, Trial Staff of the Commission (Staff), the Colorado Office of the Utility Consumer Advocate (UCA), and Energy Outreach Colorado (EOC).

3. By Decision No. C22-0514, issued September 1, 2022, the Commission set the tariff pages filed with Advice Letter No. 584 for hearing pursuant to § 40-6-111(1), C.R.S., and referred this Proceeding to an administrative law judge (ALJ). The proceeding was subsequently assigned to the undersigned ALJ.

4. On March 15, 2023, the ALJ issued Decision No. R23-0181 (Recommended Decision) permanently suspending the effective date of the tariff sheets filed with Advice Letter No. 584. The Recommended Decision established modified base rates and authorized Atmos' System Safety and Integrity Rider (SSIR) to continue for an additional two years through 2025. The Recommended Decision also authorized Atmos to: (a) "recover its stored gas costs through the [Gas Cost Adjustment rider (GCA)] and earn a return at the cost of short-term debt;"¹ and (b) obtain from ratepayers "a return at the weighted average cost of long-term debt on costs incurred during the [SSIR] extension period."²

5. On April 4, 2023, Atmos, Staff, UCA, and Energy Outreach Colorado (EOC) filed Exceptions seeking to reverse or modify parts of the Recommended Decision.

6. On May 4, 2023, the Commission issued Decision No. C23-0293 that ruled on the Exceptions.

¹ Recommended Decision at 30 (¶ 70).

² *Id.* at 21-22 (¶ 51).

7. On May 10, 2023, Atmos Filed Advice Letter No. 595 to make the changes to its tariffs in Colo. P.U.C. No. 7 Gas authorized by the decisions issued in Proceeding No. 22AL-0348G, with a May 13, 2023, effective date of the tariff sheets. The filing of Advice Letter No. 595 initiated Proceeding No. 23AL-0235G.

8. On May 11, 2023, UCA filed a protest to Advice Letter No. 595 in Proceeding No. 23AL-0235G, contending that Atmos improperly added a state and federal tax gross-up to the cost of financing gas storage inventories and asking the Commission to set the tariff pages pertaining to the GCA for hearing and to suspend those tariff pages.

9. On May 12, 2023, Staff filed a protest letter in Proceeding No. 23AL-0235G raising the same concern as UCA. Staff also asserted that Atmos improperly added credit facility costs to the cost of financing gas storage inventories. Staff recommended the Commission set for hearing the GCA provisions subject to refund if the GCA provisions are determined to not be just and reasonable, or to suspend the tariffs and set the matter for hearing.

10. On May 12, 2023, the Commission issued Decision No. C23-0320 in Proceeding No. 23AL-0235G that suspended the effective date of Tariff Sheet Nos. 5, 6, and 6A filed with Advice Letter No. 595 until September 10, 2023, or until further order of the Commission.

11. On May 24, 2023, Atmos, Staff, and UCA each filed an Application for Rehearing, Reargument, or Reconsideration of Decision No. C23-0293 (RRR Applications) in Proceeding No. 22AL-0348G. In addition to the argument it made in its protest to Advice Letter No. 595 in Proceeding No. 23AL-0235G, UCA also requested in its RRR Application “clarification from the Commission that cost recovery of Atmos’ weighted average cost of debt for its SSIR rate starting

on January 1, 2024, shall not include a tax gross-up, but shall simply recover the interest costs, without facility fees, on Atmos' weighted average cost of debt."³

12. On June 5, 2023, the Commission issued Decision No. C23-0374 granting Atmos' RRR Application "for the sole purpose of tolling the [30-day] statutory time limit" for the Commission to decide the RRR Applications.⁴

13. On June 21, 2023, the Commission issued Decision No. C23-0414 that granted the RRR Applications of Atmos and Staff, granted-in-part and denied-in-part the RRR Application of UCA, consolidated Proceeding Nos. 22AL-0348G and 23AL-0235G, and remanded the issues of the appropriate method for calculating: (a) the short-term debt rate applied to the gas storage costs for purposes of recovery through the GCA rider; and (b) the weighted average cost of debt applied to the SSIR costs recovered through the SSIR.

14. On June 27, 2023, the ALJ issued Decision No. R23-0428-I that set a shortened notice and intervention period, shortened the time within which to file opposition to any motion to permissively intervene, scheduled a remote prehearing conference for July 20, 2023, and required the parties to confer and Atmos to file report of conferral by July 18, 2023. Decision No. R23-0428-I required Atmos to provide notice of the proceeding by posting a customer notice and Decision No. C23-0320 on Atmos' website and serving both on all parties in Proceeding No. 22AL-0348G.

15. On June 28, 2023 and July 11, 2023, UCA and Staff filed Notices of Intervention by Right, respectively.

³ UCA RRR at 26.

⁴ Decision No. C23-0374 at 2 (¶ 5).

16. On July 18, 2023, Atmos filed the Conferral Report stating that the parties had not reached a consensus schedule.

17. On July 20, 2023, the remote prehearing conference took place. The ALJ suspended the effective date of the tariff page for an additional 130 days to January 18, 2024 and adopted Atmos’ proposed schedule with the addition of a September 22, 2023 deadline for responses to prehearing motions. The adopted schedule is:

<u>Event</u>	<u>Deadline</u>
Direct Testimony	July 28, 2023
Answer Testimony	August 25, 2023
Rebuttal/Cross-Answer Testimony	September 8, 2023
Prehearing Motions	September 15, 2023
Settlement Agreement(s) and Supporting Testimony Cross-Examination Matrix Corrections to Written Testimony and Exhibits Responses to Prehearing Motions	September 22, 2023
Remote Hearing	September 29, 2023
Statements of Position	TBD

18. On July 26, 2023, the ALJ issued Decision No. R23-0484-I that memorialized the decisions made at the remote prehearing conference.

19. The Atmos, Staff and UCA, and UCA filed direct, answer, and cross-answer testimony, respectively, on the deadlines specified in Decision No. R23-0484-I.

20. On September 22, 2023, Atmos, Staff, and the UCA filed an Unopposed Joint Motion to Vacate Hearing, Admit Exhibits Into Evidence, and Set Briefing Deadline (Unopposed Joint Motion). In the Unopposed Joint Motion, the parties stated that they “have agreed that the issues in this proceeding have been sufficiently addressed through the pre-filed testimony and responses to discovery.”⁵ Towards that end, the parties (a) waive cross-examination of the witnesses; and (b) stipulate to the admission of: (i) the direct, answer, and cross-answer testimony and attachments filed in this proceeding; and (ii) Atmos’ responses to UCA’s discovery requests marked as Hearing Exhibit 406 and filed with the Unopposed Joint Motion as Attachment A. Finally, the parties request that October 17, 2023 be set as the deadline for Statements of Position.

B. Analysis

21. The parties have stated good cause to grant the Unopposed Joint Motion. As a result, the Unopposed Joint Motion will be granted.

II. ORDER

A. It Is Ordered That:

1. The Unopposed Joint Motion to Vacate Hearing, Admit Exhibits Into Evidence, and Set Briefing Deadline filed by Atmos, Staff, and the UCA on September 22, 2023 (Unopposed Joint Motion) is granted.

2. The direct testimony and attachments filed by Atmos Energy Corporation on July 28, 2023, the answer testimony and attachments filed by Trial Staff of the Commission and the Colorado Office of the Utility Consumer Advocate (UCA) on August 25, 2023, the cross-answer testimony and attachments filed by UCA on September 8, 2023, and Hearing Exhibit 406 filed as

⁵ Unopposed Joint Motion at 5 (¶ 19).

Attachment A to the Unopposed Joint Motion are admitted into the evidentiary record of the Recommended Decision that will issue in this proceeding.

3. The remote evidentiary hearing scheduled for September 29, 2023 is vacated.
4. The deadline for Statements of Position is October 17, 2023.
5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director