

Decision No. R23-0756-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0216G

IN THE MATTER OF ATMOS ENERGY CORPORATION'S APPLICATION TO OPEN DEMAND-SIDE MANAGEMENT STRATEGIC ISSUES PROCEEDING.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
MODIFYING PROCEDURAL SCHEDULE AND
ADMITTING PRE-FILED TESTIMONY AND EXHIBITS**

Mailed Date: November 14, 2023

I. STATEMENT AND PROCEDURAL BACKGROUND

1. On May 1, 2023, Atmos Energy Corporation (Atmos or the Company), commenced this Proceeding by filing a Verified Application to open a demand-side management (DSM) strategic issues proceeding.¹ The Company filed the application as required by § 40-3.2-103(1), C.R.S., and Decision No. C23-0116, issued February 21, 2023, “for the development and approval of DSM energy savings targets, estimated budgets, and cost recovery procedures, and DSM bonus structure.”²

2. The Commission’s Notice of Application Filed noted that Atmos had not filed testimony with its Application, that Atmos was seeking a Commission decision within 250 days of the Application being deemed complete, and that Atmos would be required to file its Pre-Filed Testimony within 60 days of the filing of its Application.³

¹ Atmos Energy Corporation’s Verified Application, May 1, 2023.

² Notice of Application Filed, May 3, 2023.

³ *Id.*

3. The following entities filed interventions as of right:
 - The Office of the Utility Consumer Advocate (UCA) filed its Notice of Intervention of Right on May 15, 2023; and
 - Commission Trial Staff filed a Notice of Intervention as of Right on May 25, 2023.

4. The Colorado Energy Office (CEO) also filed an Intervention of Right on June 1, 2023, but withdrew it on July 12, 2023.⁴

5. In addition, two entities moved to intervene in this Proceeding:
 - Southwest Energy Efficiency Project (SWEEP) filed its Motion to Intervene on June 1, 2023; and,
 - Energy Outreach Colorado (EOC) filed an Unopposed Motion to Intervene on June 2, 2023.

Decision No. R23-0476-I, issued July 27, 2023, granted both Motions to Intervene.

6. The parties to this Proceeding therefore are Atmos, UCA, SWEEP, EOC, and Trial Staff.

7. The Commission automatically deemed the application complete as of June 17, 2023, and referred the matter to an administrative law judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

8. In compliance with the Commission's Notice of Application Filed, the parties submitted the following pre-filed testimony, along with attached exhibits:

- a. Atmos filed Hearing Exhibit 100, the Direct Testimony of Ken Fogle, its Vice President of Marketing on June 30, 2023;
- b. On August 18, 2023, Intervenors filed the following Answer Testimony:
 - Trial Staff filed Hearing Exhibit 200, the Answer Testimony of Seina Soufiani, Chief Engineer/Section Chief of the Commission's Engineering Section in Fixed Utilities; and Hearing Exhibit 201,

⁴ See Notice of Withdrawal of Intervention by Right of the Colorado Energy Office, July 12, 2023.

- the Answer Testimony of Aaron Moseley, Professional Engineer with the PUC;
- UCA filed Hearing Exhibit 300, the answer testimony of Chris Neil, a rate/financial analyst with UCA; and,
 - SWEEP filed Hearing Exhibit 500, the Testimony of Justin Brant, its Utility Program Director.
- c. Finally, on September 22, 2023, the parties filed their respective Cross-Answer and Rebuttal Testimony:
- Atmos filed Hearing Exhibit 101, the Rebuttal Testimony of Ken Fogle, and Hearing Exhibit 102, the Rebuttal Testimony of Kathleen Ocanas, Atmos' Vice President of Rates and Regulatory Affairs;
 - UCA filed Hearing Exhibit 301, the Cross-Answer Testimony of Chris Neil
 - EOC filed Hearing Exhibit 400, the Cross-Answer Testimony of Andrew Bennett, its Vice President of Advocacy; and
 - SWEEP filed Hearing Exhibit 501, the Cross-Answer Testimony of Justin Brant.

9. Decision No. R23-0476-I adopted a procedural schedule to which the parties had agreed and scheduled an Evidentiary Hearing for November 16 and 17, 2023. Pursuant to the procedural schedule, the parties' post-hearing Statements of Position (SOPs) are due December 1, 2023.

10. On October 31, 2023, counsel for Atmos, Nikolas Stoffel, advised the undersigned ALJ that the parties had reached a settlement agreement in principle with respect to all but one issue. The parties filed their Unanimous Non-Comprehensive Stipulation and Settlement Agreement on November 2, 2023.

11. At the parties' request, the undersigned ALJ issued Decision No. R23-0739-I on November 1, 2023, granting the parties up to and including November 9, 2023, within which to file testimony supporting their settlement.

12. Subsequently, on November 2, 2023, Atmos filed an Unopposed Motion to Modify Procedural Schedule, Admit Exhibits into Evidence, and for Approval of Stipulation. In the Unopposed Motion, Atmos explained that the parties had resolved all but one of the “disputed issues in this proceeding.” The one issue in dispute concerns whether Atmos must include beneficial electrification (BE) in its next DSM plan. To grant the parties sufficient time to brief this issue, Atmos requests that the current SOP deadline be modified “to be the deadline for briefs regarding the BE issue described above.”

13. In addition, Atmos requests that the exhibits and pre-filed testimony that have been submitted in this proceeding be admitted into evidence for consideration by the Commission.

14. The ALJ finds and concludes that it is reasonable and appropriate to modify the procedural schedule to allow the parties until December 1, 2023, to file briefs addressing the BE issue. The ALJ also finds and concludes that it is reasonable and appropriate to admit the pre-filed testimony and exhibits into the record. The procedural schedule will be so modified, and the exhibits and testimony will be admitted.

15. With respect to Atmos’ request for approval of the Stipulation and Settlement, as well as the vacation of the evidentiary hearing, the ALJ notes that the parties’ settlement testimony has been received and is under review. The proposed settlement and filed settlement testimony may raise or answer questions about the Stipulation and Settlement that the Commission would like the parties to address, either in writing or at a hearing. Consequently, the motion for approval of the Stipulation and Settlement, as well as the motion to vacate the currently-set evidentiary hearing, will be addressed by separate order.

II. ORDER

A. It Is Ordered That:

1. The procedural schedule adopted by Decision No. R23-0476-I, issued July 27, 2023, is modified.
2. Briefs addressing the unresolved issue of the inclusion Beneficial Electrification in Atmos Energy’s next DSM Plan must be filed on or before December 1, 2023.
3. Hearing Exhibits 100, 101, 102, 200, 201, 300, 301, 400, 500, and 501 are admitted into evidence in the record, along with all attachments filed with those exhibits.
4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director