

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.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
GRANTING UNOPPOSED MOTION TO
VACATE REMOTE PREHEARING CONFERENCE,
GRANTING MOTION TO INTERVENE, EXTENDING
STATUTORY DEADLINE, ESTABLISHING SCHEDULE,
ASSIGNING EXHIBIT NUMBER BLOCKS,
AND SCHEDULING REMOTE HEARING**

Mailed Date: October 13, 2022

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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. Through Advice Letter No. 584, Atmos seeks a net annual increase in base rate revenue of approximately \$7.7 million, a recovery of an estimated \$750,000 of rate case expenses, and an extension of its System Safety and Integrity Rider for five additional years through 2028. The residential class would bear responsibility for all of the revenue increase, which would cause residential annual bills to increase by approximately 8 to 9 percent. The effective date of the tariffs filed with Advice Letter No. 584 is September 5, 2022.

2. On August 17, 2022, Trial Staff of the Colorado Public Utilities Commission (Staff) filed a protest to Atmos' Advice Letter No. 584. In its protest, Staff specified several issues raised by Advice Letter No. 584 that it intends to examine in the proceeding. Staff also requested that the Commission consider requiring Atmos to file Supplemental Direct Testimony that provides Atmos' 10-year investment plans and resulting rate impacts.

3. On August 26, 2022, Atmos filed a response to this statement in Trial Staff's protest, arguing that the suggestion for Supplemental Direct Testimony should be denied. Atmos explains its decision to file a historic test year for the purpose of minimizing controversy in this rate case by reducing the use of forecasts and questions the relevance of the suggested forecast to the setting of base rates in this Proceeding. Atmos further states that it does not have capital investment forecasts beyond five years.

4. On August 15, 2022, the Colorado Office of the Utility Consumer Advocate (UCA) filed a protest to Atmos' Advice Letter No. 584 (UCA's Protest). Like Staff, UCA identified several

issues that it intends to explore in this proceeding. UCA also argued that House Bill (HB) 21-1266 requires Atmos to address the impact of its proposed rates on income qualified and disproportionately impacted communities and that Atmos failed to do so. UCA requested that the Commission direct Atmos to file supplemental direct testimony describing the outreach it conducted with such communities prior to submitting Advice Letter No. 584 (Request for Supplemental Direct Testimony).

5. On August 25, 2022, Atmos filed a response to this aspect of UCA's protest. Atmos stated that it welcomes the opportunity to collaborate with the Commission, the UCA, and other parties to aid the Commission in its compliance with HB 21-1266 and § 40-2-108(3)(b), C.R.S., in this adjudicatory proceeding. However, Atmos argued that, contrary to UCA's argument, HB 21-1266 did not impose any requirements on utilities like Atmos to address the effect of its proposed rates, terms, and conditions on income qualified and disproportionately impacted communities. Atmos concluded that it is inappropriate and inconsistent with the law to shift the Commission's responsibilities to Atmos or to impose pre- or post-filing requirements that do not exist.

6. UCA filed a Motion for Leave to Reply to Atmos' Response (Motion for Leave) on August 26, 2022. UCA questioned the propriety of Atmos' filing a response to a protest in light of the Commission's Rules of Practice and Procedure. More substantively, UCA repeated its argument that § 24-4-109, C.R.S., applies to this case and that Atmos' omission of this alleged legal requirement is a misstatement of law that merits a response.

7. By Decision No. C22-0514 issued September 1, 2022, the Commission set the tariff pages for hearing pursuant to § 40-6-111(1), C.R.S., which suspended their effective date through January 3, 2023, and referred this proceeding to an ALJ for disposition. The proceeding was

subsequently assigned to the undersigned ALJ. Decision No. C22-0514 also set October 3, 2022 as the deadline for filing a pleading to intervene in this matter, and granted Staff's request to order Atmos to file Supplemental Direct Testimony addressing its 10-year investment plans and resulting rate impacts. Finally, Decision No. C22-0514 directed the undersigned ALJ to: (a) establish the deadline for the filing of the Supplemental Direct Testimony requested by Staff; (b) address UCA's request for Supplemental Testimony addressing the impact of its proposed rates on income-qualified customers and disproportionately impacted communities; and (c) rule on UCA's Motion for Leave.

8. On September 30, 2022, the ALJ issued Decision No. R22-0592-I that denied UCA's Request for Supplemental Direct Testimony and Motion for Leave, scheduled a remote prehearing conference for October 14, 2022 at 9:00 a.m., required the parties to confer about a schedule for the proceeding and Atmos to file report of conferral by October 11, 2022, and shortened the time to respond to any motions to intervene filed after September 29, 2022 to October 11, 2022.

9. Also on September 30, 2022, Energy Outreach Colorado (EOC) filed a Motion to Intervene.

10. On October 5, 2022, Atmos filed an Unopposed Motion to Reschedule the remote prehearing conference to October 20 or 21, 2022 due to scheduling conflicts.

11. On October 10, 2022, Atmos filed the Conferral Report required by Decision No. R22-0592-I.

B. EOC’s Motion to Intervene

12. Atmos has not opposed the Motion to Intervene filed by EOC. Accordingly, and because it satisfies Rule 1401(c) of the Commission’s Rules of Practice and Procedure,¹ EOC’s Motion to Intervene will be granted.

C. Pre- and Post-Hearing Schedule

13. The following procedural schedule proposed by the parties will be adopted in this proceeding.

<u>Event</u>	<u>Deadline</u>
Supplemental Direct Testimony	October 17, 2022
Answer Testimony	November 16, 2022
Rebuttal Testimony and Cross-Answer Testimony	December 13, 2022
Prehearing Motions	December 14, 2022
Settlement Agreements and Supporting Testimony	December 21, 2022
Cross-Examination Witness Matrix & Exhibit List	December 21, 2022
Remote Evidentiary Hearing	January 5-6, 9-11, 2023

14. The parties have also proposed a deadline for Statements of Position (SOPs) of January 31, 2023. The ALJ will not adopt that deadline at this time. Instead, the ALJ will wait until at or near the end of the hearing to decide upon the post-hearing schedule for this proceeding, including a deadline for SOPs.

¹ 4 Code of Colorado Regulations 723-1.

15. In addition, the parties' agreement for Commission Rule 1405 to govern discovery with the additions proposed by the parties are acceptable. Those additions are: (a) a 7-business day response time for discovery regarding supplemental testimony provided that discovery regarding supplemental direct is served separately from discovery regarding Atmos' direct testimony; and (b) the provision of executable copies of all testimony attachments and workpapers within 3 business days of the filing of testimony.

D. Extension of Time for Commission Decision

16. As noted above, the Commission set the tariff pages for hearing, which suspended the effective date for 120 days from the proposed effective date (September 5, 2022) to January 3, 2023.

17. Section 40-6-111(1), C.R.S., provides that the Commission may, in its discretion, by a separate decision, suspend the effective date of the tariff page(s) for an additional 130 days. Thus, the Commission has the power and authority to suspend the effective date of the tariff pages for a maximum of 250 days.

18. Here, in light of the time available, the schedule proposed by the parties, the time necessary to address other pending matters, and the need for the Commission to have adequate time to deliberate the issues presented in this matter, it is not feasible for a final Commission decision to issue by January 3, 2023. Accordingly, it is necessary to extend the effective date of the tariff sheets filed with the Advice Letter for an additional 130 days pursuant to § 40-6-111(1), C.R.S. The new effective date of the Advice Letter and accompanying tariff sheets, after suspension, is May 13, 2023.

E. Hearing Exhibit Number Block Assignments

19. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties must use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Atmos is assigned hearing exhibit numbers 100 to 299;
- Staff is assigned hearing exhibit numbers 300 to 399;
- UCA is assigned hearing exhibit numbers 400 to 499; and
- EOC is assigned hearing exhibit numbers 500 to 599.

F. Remote Hearing

20. The evidentiary hearing will be held remotely, which means that the participants will appear from remote locations. The participants may not appear at the hearing in-person. The remote evidentiary hearing will be held using the web-hosted service, Zoom. This Decision and Attachments A and B provide critical information and instructions to facilitate holding the hearing by video-conference, which all parties must follow.

21. To minimize the potential that the video-conference hearing may be disrupted by non-participants, the link, meeting ID code, and passcode to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

22. Attachment A to this Decision provides the information addressing how to use the Zoom platform for participating in the remote hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentations at the remote hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

G. Remote Prehearing Conference

23. The remote prehearing conference scheduled for October 14, 2022 is vacated.

H. Public Comment Hearings

24. Public comment hearings will be scheduled in a separate decision that will be issued as soon as reasonably possible.

II. ORDER

A. It is Ordered That:

1. The effective date of the tariff sheets filed with Advice Letter No. 584 is suspended for an additional 130 days pursuant to § 40-6-111(1), C.R.S.

2. The Motion to Intervene filed by Energy Outreach Colorado (EOC) on September 30, 2022 is granted. The parties to this proceeding are Atmos Energy Corporation, Trial Staff of the Commission, the Colorado Office of the Utility Consumer Advocate, and EOC.

3. The schedule detailed above is adopted.

4. The remote prehearing conference scheduled for October 14, 2022 is vacated.

5. A remote hearing is scheduled as follows:

DATE: January 5 through 6, 9 through 11, 2023

TIME: 9:00 a.m. to 5:00 p.m.

WEBCAST: Commission Hearing Room C

METHOD: Join by video conference using Zoom at the link to be provided in an email from the Administrative Law Judge OR Commission Staff²

6. Nobody should attend the hearing in person.

² Additional information about the Zoom platform and how to use the platform are available at: <https://zoom.us/>. All are strongly encouraged to participate in a test meeting prior to the scheduled hearing. See <https://zoom.us/test>.

7. 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 "Doug Dean".

Doug Dean,
Director