

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22F-0365E

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 SCHEDULING REMOTE PUBLIC
COMMENT HEARINGS**

Mailed Date: November **, 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 ten-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 and an Unopposed Motion to Approve Consensus Schedule and Vacate the Remote Prehearing Conference (Unopposed Motion).

12. On October 13, 2022, the ALJ issued Decision No. R22-0617-I that granted EOC's Motion to Intervene, granted the Unopposed Motion, and scheduled a remote hearing in this proceeding for January 5-6 and 9-11, 2023. Decision No. R22-0617-I also stated that one or more public comment hearings would be scheduled in a separate decision.

B. Remote Public Comment Hearings

13. Two remote public comment hearings will be held using the web-hosted video-conferencing service, Zoom. On March 10, 2020, Colorado Governor Jared Polis declared

a state of emergency over the novel coronavirus pandemic (COVID-19). The Governor lifted the state of emergency by executive order on July 8, 2021. Throughout the COVID-19 pandemic, the Commission has acted to minimize any disruption of its services while maximizing access to its services. The Commission continues to mitigate the risks of infection to State employees and the public.

14. Statistics from the Colorado Department of Public Health & Environment indicate that COVID-19 is once again spreading and circulating more widely. In addition, the State has seen significant spread of influenza and respiratory illnesses, including RSV. Hospitalizations in Colorado from the aforementioned illnesses have also recently increased.

15. The Commission is cognizant that an in-person public comment hearing could increase the spread of the above-described viruses. The Commission recognizes that further spread of these viruses at the hearing could jeopardize the health and safety of the public, parties, Commission, and Commission staff.

16. The ALJ finds that holding remote public comment hearings is consistent with current public health situation and is intended to prevent the further spread of COVID-19 and other viruses identified above. The ALJ concludes that it is in the best interest of all affected to hold the public comment hearings in this proceeding as remote public comment hearings.

17. The remote public comment hearings will be held on: (a) December 8, 2022 from 11:30 a.m. to 1:30 p.m.; and (b) January 3, 2022 from 11:30 a.m. to 1:30 p.m.

18. Information and requirements to participate in the Zoom remote public comments hearing by video-conference are included in Attachment A to this Decision. For those who wish to provide oral comments during the hearing, video-conference participation is preferred and

encouraged because it allows for the hearing to be held in a manner most similar to in-person hearings. Nevertheless, interested persons will also have the option to participate by telephone. The link, meeting ID code, passcode, and call-in information to participate in the hearing is provided in the ordering paragraphs below and will be available on the Commission's public calendar at least one week prior to the public comment hearing.

19. The Commission prefers written comments over oral comments. Interested persons are encouraged to submit written comments through either: (a) the Commission's Electronic Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage> in this proceeding; or (b) the Commission's website at <https://puc.colorado.gov/> by clicking on the "FILE A COMMENT OR COMPLAINT" link. Both oral and written comments will be given the same weight in this proceeding.

II. **ORDER**

A. **It is Ordered That:**

1. Remote public comment hearings are scheduled as follows:

DATE: December 8, 2022

TIME: 11:30 a.m., continuing until concluded or until 1:30 p.m., whichever occurs first

WEBCAST: Commission Hearing Room B

METHOD: Join by video conference using Zoom at the following link:
<https://us06web.zoom.us/j/83254595042?pwd=eTlOOVVyeTdDL1NGaW1lWGFXbnNldz09>

DATE: January 3, 2023
TIME: 11:30 a.m., continuing until concluded or until 1:30 p.m., whichever occurs first
WEBCAST: Commission Hearing Room B
METHOD: Join by video conference using Zoom at the following link:
<https://us06web.zoom.us/j/84553674337?pwd=cjBFV3VaSWtPMDFIRDFNRVNqMnI4dz09>

2. Nobody should attend the remote public comment hearings in person.
3. 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

Doug Dean,
Director