

Decision No. R14-0494-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0300G

IN THE MATTER OF ADVICE LETTER NO. 511 FILED BY ATMOS ENERGY CORPORATION TO PLACE INTO EFFECT TARIFF SHEET CHANGES TO BE EFFECTIVE ON MAY 5, 2014.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
SCHEDULING PREHEARING CONFERENCE AND
SUSPENDING EFFECTIVE DATE OF TARIFF SHEET**

Mailed Date: May 9, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On April 2, 2014, Atmos Energy Corporation (Atmos) filed Advice Letter No. 511 (Advice Letter) seeking to place in effect tariff sheet changes on May 5, 2014. That same day, Atmos filed direct testimony and exhibits.

2. On April 10, 2014, the Colorado Office of Consumer Counsel (the OCC) filed a protest and objection to the Advice Letter and tariff sheets filed by Atmos. The OCC requests an evidentiary hearing on the Advice Letter and tariff sheets. The OCC has not yet filed an intervention in this proceeding.

3. Commission trial Staff (Staff) has filed both a protest and an intervention objecting to the Advice Letter and tariff sheets filed by Atmos. Staff requests an evidentiary hearing on the Advice Letter and tariff sheets.

4. During its weekly meeting held April 30, 2014, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition. Decision No. C14-0452. At the

same time, the Commission suspended the proposed effective date of the tariff page(s) filed by Atmos with Advice Letter No. 511 for 120 days until September 2, 2014, or until further order of the Commission. *Id.*

5. The Commission ordered that anyone wishing to intervene in this proceeding file a motion to intervene with the Commission within 30 days after the mailing date of Decision No. C14-0452. The Decision was mailed on May 2, 2014. Interventions are due by June 1, 2014.

A. Suspension of Tariff

6. As discussed above, the Commission has already suspended the effective date of the tariff pages for 120 days to September 2, 2014, or until further order of the Commission, as permitted by § 40-6-111(1), C.R.S. Decision No. C14-0452.

7. Section 40-6-111(1), C.R.S., gives the Commission the authority to suspend the effective date of the tariff pages for a maximum of 210 days or, in this proceeding, until December 1, 2014. Staff has already intervened and requested a hearing. The Commission has ordered that a hearing be held regarding the Advice letter and tariff pages Decision No. C14-0452. In order to allow time for an evidentiary hearing, the filing of answer testimony and exhibits, rebuttal testimony and exhibits, cross-answer testimony and exhibits, corrected testimony and exhibits, post-hearing statements of position, a recommended decision, exceptions, responses to exceptions and a final Commission decision, the ALJ will further suspend the effective date of the tariff pages for an additional 90 days, until December 1, 2014.

8. If no new rates are established by the Commission before December 1, 2014, and Atmos does not file an amended Advice Letter with a new effective date, the tariff sheets filed by Atmos on April 2, 2014 may become effective.

B. Prehearing Conference

9. A prehearing conference is necessary to address the matters identified below. The ALJ will schedule a prehearing conference in this matter to be held on June 5, 2014.

10. At the prehearing conference, the parties must be prepared to discuss:

- date by which each intervener will file and serve answer testimony and exhibits;
- date by which Atmos will file and serve rebuttal testimony and exhibits;
- date by which each intervener will file and serve cross-answer testimony and exhibits;¹
- date by which each party will file and serve corrected testimony and exhibits;
- date by which each party will file and serve final witness and exhibit lists, which will include the order in which each party will call their witnesses, and the estimated amount of time each party requires for direct and cross-examination of each witness;
- date by which each party will file and serve its prehearing motions;²
- the date for a final prehearing conference;
- date by which the parties will file any settlement reached;³
- date(s) for the evidentiary hearing; and
- date by which each party will file its post-hearing statement of position, to which no response or reply will be permitted.

11. To allow time for post-hearing statements of position, a recommended decision, exceptions, responses to exceptions and a final Commission decision, the evidentiary hearing must be *concluded* no later than August 15, 2014.

12. At the prehearing conference, the parties must be prepared to discuss any matter pertaining to discovery if the parties believe that procedures and timeframes contained in

¹ Cross-answer testimony responds only to the answer testimony of another intervener.

² This date **must** be at least seven days before the final prehearing conference.

³ This date **must** be at least three business days before the first day of hearing.

Rule 1405, 4 *Code of Colorado Regulations* (CCR) 723-1 of the Commission's Rules of Practice and Procedure, are not sufficient.

13. At the prehearing conference, the parties must be prepared to discuss any matter pertaining to information claimed to be confidential if the parties believe that Rule 1100, 4 CCR 723-1 is not adequate.

14. At the prehearing conference, the parties must be prepared to discuss any other procedural matter relating to the conduct of the hearing (*e.g.*, the use of electronic exhibits at hearing).

15. At the prehearing conference, a party may raise any additional issue.

16. The parties must confer with each other prior to the prehearing conference with respect to the matters identified in this Decision. The ALJ will order Atmos to coordinate the discussions. When conferring on a procedural schedule, the parties should keep in mind that the hearing must be concluded by August 15, 2014.

17. The ALJ expects the parties to come to the prehearing conference with proposed dates for the procedural schedule and evidentiary hearing.

18. A party's failure to attend or to participate in the prehearing conference to be a waiver of objections to any ruling or decisions made during or as a result of the prehearing conference.

C. Public Comment Hearing

19. The ALJ will schedule a hearing to take public comment on the issues in this proceeding. The hearing will be held in Denver, Colorado. The ALJ shall select a date for the public comment hearing at the prehearing conference.

20. The parties are on notice that they will not be permitted to present comments at the public comment hearing. The parties will be permitted to respond to public comments during the evidentiary hearing.

II. ORDER

A. It Is Ordered That:

1. The effective date of the tariff pages filed by Atmos Energy Corporation (Atmos) is suspended for an additional 90 days, until December 1, 2014.

2. A prehearing conference will be held as set forth below:

DATE: June 5, 2014

TIME: 10:30 a.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

3. The matters identified herein will be addressed at the prehearing conference. Those attending the prehearing conference must be prepared to address the matters identified herein and must have authority to agree to a procedural schedule and evidentiary hearing date.

4. Atmos shall coordinate discussions between the parties regarding the issues to be addressed at the prehearing conference.

5. Failure to attend or to participate in the prehearing conference shall be deemed a waiver of objection to any ruling or decisions made during or as a result of the prehearing conference.

6. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director