

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 21, 2023

CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2023 AUG 21 A 10:38

230830154

APPLICATION OF

ATMOS ENERGY CORPORATION

CASE NO. PUR-2023-00008

For a general increase in rates

ORDER FOR NOTICE AND HEARING

On June 30, 2023,¹ Atmos Energy Corporation ("Atmos" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") for a general increase in rates pursuant to Chapter 10 of Title 56 of the Code of Virginia ("Code"), the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.* ("Rate Case Rules"), the Commission's Rule of Practice and Procedure² ("Rules of Practice") 5 VAC 5-20-80, and consistent with the Commission's Order on Request For Waiver dated January 31, 2023.³ In its Application, the Company requests authority to increase its rates and charges, revise the terms and conditions applicable to natural gas service, and to implement its proposed rates, charges, and revised terms and conditions on an interim basis, subject to refund, effective for service rendered on or after November 30, 2023.⁴

¹ The Staff of the Commission ("Staff") filed a Memorandum of Incompleteness on July 17, 2023. Atmos submitted additional information on July 27, 2023. Staff filed a Memorandum of Completeness on August 2, 2023, finding the filing complete as of July 27, 2023.

² 5 VAC 5-20-10 *et seq.*

³ *Application of Atmos Energy Corporation, For an Annual Informational Filing*, Case No. PUR-2023-00008, Doc. Con. Cen. No. 230130017, Order on Request for Waiver (Jan. 31, 2023).

⁴ Application at 1.

The Company indicates that the Commission last granted Atmos an adjustment to its rates on March 11, 2019,⁵ which required a \$400,000 reduction to the Company's operating revenues, authorized a 9.2% return on equity ("ROE"), and accepted the partial stipulation between Atmos and Staff, which addressed the impact of the federal Tax Cuts and Jobs Act of 2017 ("TCJA") on the Company's rates, and included an agreement to the return of excess deferred income taxes ("EDIT") to customers.⁶ The Company states that it is filing the Application to reflect the completion of the Company's unprotected EDIT approved in the 2018 Final Order, as well as to reflect the capital investments and other changes in its cost of service that have occurred since the last rate case.⁷

In its Application, the Company is seeking a rate increase that will produce additional annual jurisdictional revenues of \$3,178,349, or an overall increase of approximately 26.42%, based on an 11.15% ROE.⁸ Among other things, Atmos is proposing an increase in the monthly customer charges for schedule 610 residential customers to \$16.00 from the current rate of \$10.24, with similar changes in the monthly customer charges for other rate classes.⁹

Additionally, the Company is also proposing revisions to its tariffs and Terms and Conditions of Service, to include: (i) modernization of the Company's terms and conditions of service to align with current operations and consistent with those of existing Virginia local distribution companies; (ii) clarification of the responsibilities of the utility and its customers;

⁵ See *Application of Atmos Energy Corporation, For a General Increase in Rates*, Case No. PUR-2018-00014, 2019 S.C.C. Ann. Rept. 178, Final Order (Mar. 11, 2019) ("2018 Final Order").

⁶ Application at 2.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 3; see Taylor Direct at 7; Application at Schedule 43.

(iii) a proposal to remove late payment fees and miscellaneous service fees and instead include these in base rates; and (iv) a proposed new provision to its general terms and conditions, Section 8.1(c) (4) related to the construction of line extensions by the Company to serve new customers.¹⁰

The Company states that, consistent with the requirements of Code § 56-238, Atmos requests to place its proposed changes to its rates and Terms and Conditions into effect for service rendered on or after November 30, 2023, on an interim basis, subject to refund, until the Commission issues its final order in this proceeding.¹¹

In conjunction with the filing of its Application, the Company filed its Motion for Protective Ruling ("Motion") and a proposed protective ruling that establishes the procedures by which trade secret, confidential, or proprietary information and documents shall be handled generally in this proceeding.

NOW THE COMMISSION, upon consideration of the Application and applicable statutes, is of the opinion and finds that this matter should be docketed; Atmos should give notice of its Application to interested persons and the public; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Application as well as public witness testimony; interested persons should have an opportunity to file comments on the Application or participate as a respondent in this proceeding; and Staff should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon.

¹⁰ Application at 3; *see* Taylor Direct at 8-11.

¹¹ Application at 4.

Code § 56-238 permits the suspension of rates for up to 150 days from the date of filing. We find that suspending rates for 150 days is appropriate in this case. On or after November 27, 2023, the Company may, but is not required to, implement its proposed rates on an interim basis, subject to refund with interest.

We find this matter should be assigned a Hearing Examiner to conduct all further proceedings in this matter on behalf of the Commission, including ruling on the Company's Motion.

To promote administrative efficiency and timely service of filings upon participants, the Commission will, among other things, direct the electronic filing of testimony and pleadings unless they contain confidential information, and require electronic service on parties to this proceeding.

We note that customer bills will increase if the Company's Application is approved. The Commission notes its awareness of the ongoing rise in gas prices, inflation, and other economic pressures that are impacting all utility customers. We are sensitive to the effects of rate increases, especially in times such as these. The Commission, however, must and will follow the laws applicable to this case, as well as the findings of fact supported by evidence in the record.

Accordingly, IT IS ORDERED THAT:

(1) All pleadings in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(2) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on parties and Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, all parties and Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or Staff is impeded from preparing its case.

(3) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission, including filing a final report. A copy of each filing made with the Commission's Clerk's office in this matter shall also be sent electronically to the Office of the Hearing Examiners.¹²

(4) The Commission hereby schedules a telephonic portion of the hearing for the receipt of testimony from public witnesses on the Application, as follows:

- (a) The portion of the hearing for the receipt of testimony from public witnesses on the Application shall be convened telephonically at 10 a.m., on March 12, 2024, with no witness present in the Commission's courtroom.
- (b) To promote fairness for all public witnesses, each witness will be allotted five minutes to provide testimony.
- (c) On or before March 5, 2024, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141.

¹² Such electronic copies shall be sent to OHEParalegals@scc.virginia.gov.

- (d) Beginning at 10 a.m., on March 12, 2024, the Hearing Examiner appointed to this case will telephone sequentially each person who has signed up to testify, if any, as provided above.
- (e) This public witness portion of the hearing will be webcast at scc.virginia.gov/pages/Webcasting.

(5) The evidentiary portion of the hearing on the Application shall be convened at 10 a.m. on March 12, 2024, or at the conclusion of the public witness portion of the hearing, whichever is later, in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony and evidence of the Company, any respondents, and the Staff.

(6) An electronic copy of the Company's Application may be obtained by submitting a written request to counsel for the Company: Timothy E. Biller, Esq. and Andrea D. Gardner, Esq., Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219, tbiller@huntonak.com and agardner@huntonak.com. Interested persons also may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(7) On or before September 8, 2023, the Company shall cause the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Company's Virginia service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
ATMOS ENERGY CORPORATION
FOR A GENERAL INCREASE IN RATES
CASE NO. PUR-2023-00008

On June 30, 2023, Atmos Energy Corporation ("Atmos" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") for a general increase in rates pursuant to Chapter 10 of Title 56 of the Code of Virginia ("Code"), the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, 20 VAC 5-201-10 *et seq.* ("Rate Case Rules"), the Commission's Rule of Practice and Procedure ("Rules of Practice") 5 VAC 5-20-80 and consistent with the Commission's Order on Request For Waiver dated January 31, 2023. In its Application, the Company requests authority to increase its rates and charges, revise the terms and conditions applicable to natural gas service, and to implement its proposed rates, charges, and revised terms and conditions on an interim basis, subject to refund, effective for service rendered on or after November 30, 2023.

The Company indicates that the Commission last granted Atmos an adjustment to its rates on March 11, 2019, which required a \$400,000 reduction to the Company's operating revenues, authorized a 9.2% return on equity ("ROE"), and accepted the partial stipulation between Atmos and Staff, which addressed the impact of the federal Tax Cuts and Jobs Act of 2017 ("TCJA") on the Company's rates, and included an agreement to the return of excess deferred income taxes ("EDIT") to customers. The Company states that the Application in this instant case reflects the completion of the Company's unprotected EDIT approved in the 2018 Final Order, as well as to reflect the capital investments and other changes in its cost of service that have occurred since the last rate case.

In its Application, the Company is seeking a rate increase that will produce additional annual jurisdictional revenues of \$3,178,349, or an overall increase of approximately 26.42%, based on an 11.15% ROE. Among other things, Atmos is proposing an increase in the monthly customer charges for schedule 610 residential customers to \$16.00 from the current rate of \$10.24, with similar changes in the monthly customer charges for other rate classes.

Additionally, the Company is also proposing revisions to its tariffs and Terms and Conditions of Service, to include:

(i) modernization of the Company's terms and conditions of service to align with current operations and consistent with those of existing Virginia local distribution companies; (ii) clarification of the responsibilities of the utility and its customers; (iii) a proposal to remove late payment fees and miscellaneous service fees and instead include these in base rates; and (iv) a proposed new provision to its general terms and conditions, Section 8.1(c) (4) related to the construction of line extensions by the Company to serve new customers.

Interested persons are encouraged to review Atmos's Application and supporting public documents in full for details about these and other proposals.

TAKE NOTICE that the Commission may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents and thus may adopt rates that differ from those appearing in the Company's Application and supporting documents.

The Commission entered an Order for Notice and Hearing in this proceeding that, among other things, scheduled a public hearing on Atmos's Application. On March 12, 2024, at 10 a.m., the Hearing Examiner assigned will hold the telephonic portion of the hearing for the purpose of receiving the testimony of public witnesses, with no witness present in the Commission's courtroom. On or before March 5, 2024, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141. This public witness hearing will be webcast at scc.virginia.gov/pages/Webcasting.

Beginning at 10 a.m. on March 12, 2024, the Hearing Examiner will telephone sequentially each person who has signed up to testify as provided above.

On March 12, 2024, at 10 a.m., or at the conclusion of the public witness portion of the hearing, whichever is later, in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, the

Hearing Examiner will convene a hearing to receive testimony and evidence related to the Application from the Company, any respondents, and the Commission Staff.

To promote administrative efficiency and timely service of filings upon participants, the Commission has directed the electronic filing of testimony and pleadings, unless they contain confidential information, and required electronic service on parties to this proceeding.

An electronic copy of the Company's Application also may be obtained by submitting a written request to counsel for the Company: Timothy E. Biller, Esq., and Andrea D. Gardner, Esq., Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219, tbiller@huntonak.com and agardner@huntonak.com. Interested persons also may download unofficial copies of the Application and other documents filed in this case from the Commission's website: scc.virginia.gov/pages/Case-Information.

On or before March 5, 2024, any interested person may submit comments on the Application by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail with the Clerk of the State Corporation Commission c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All such comments shall refer to Case No. PUR-2023-00008.

On or before November 3, 2023, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent

must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2023-00008.

On or before January 16, 2024, each respondent may file with the Clerk of the Commission, at scc.virginia.gov/clk/efiling, any testimony and exhibits by which the respondent expects to establish its case. Any respondent unable, as a practical matter, to file testimony and exhibits electronically may file such by U.S. mail to the Clerk of the Commission at the address listed above. Each witness's testimony shall include a summary not to exceed one page. All testimony and exhibits shall be served on the Commission's Staff, the Company, and all other respondents simultaneous with its filing. In all filings, respondents shall comply with the Commission's Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2023-00008.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Hearing, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

The public version of the Company's Application, the Commission's Rules of Practice, the Commission's Order for Notice and Hearing, and other documents filed in this case may be viewed on the Commission's website at: scc.virginia.gov/pages/Case-Information.

ATMOS ENERGY CORPORATION

(8) On or before September 8, 2023, the Company shall serve a copy of this Order for Notice and Hearing on the following local officials, to the extent the position exists, in each county, city, and town through which the Company provides service: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made electronically where

possible; if electronic service is not possible, service shall be made by either personal delivery or first-class mail to the customary place of business or residence of the person served.

(9) On or before September 29, 2023, the Company shall file proof of the notice and service required by Ordering Paragraphs (7) and (8), including the name, title, address, and electronic mail address (if applicable) of each official served, with the Clerk of the State Corporation Commission at scc.virginia.gov/clk/efiling.

(10) On or before March 5, 2024, any interested person may submit comments on the Application by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to file comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2023-00008.

(11) On or before November 3, 2023, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (10). Such notice of participation shall include the email addresses of such parties or their counsel. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented

by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2023-00008.

(12) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve a copy of the public version of its Application and supporting materials on the respondent, unless these materials already have been provided to the respondent.

(13) On or before January 16, 2024, each respondent may file with the Clerk of the Commission, at scc.virginia.gov/clk/efiling, any testimony and exhibits by which the respondent expects to establish its case. Any respondent unable, as a practical matter, to file testimony and exhibits electronically may file such by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (10). Each witness's testimony shall include a summary not to exceed one page. All testimony and exhibits shall be served on the Commission's Staff, the Company, and all other respondents simultaneous with its filing. In all filings, respondents shall comply with the Commission's Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2023-00008.

(14) On or before February 6, 2024, the Staff shall investigate the Application and file with the Clerk of the Commission its testimony and exhibits concerning the Application, and each Staff witness' testimony shall include a summary not to exceed one page. A copy thereof shall be served on counsel to the Company and all respondents.

(15) On or before February 27, 2024, Atmos shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Company shall serve a copy of its rebuttal testimony and exhibits on the Staff and all respondents.

(16) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(17) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the Staff.¹³ Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(18) The proposed rates, charges, and terms and conditions of service are suspended, pursuant to § 56-238 of the Code. The Company may, but is not obligated to, implement the proposed rates for service rendered on and after November 27, 2023, on an interim basis, subject to refund with interest.

(19) On or before September 27, 2023, Atmos shall file a bond with the Commission in the amount of \$3,178,349 payable to the Commission and conditioned to ensure the prompt

¹³ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number PUR-2023-00008 in the appropriate box.

refund by the Company to those entitled thereto of all amounts the Company shall collect in excess of such rates and charges as the Commission may finally fix and determine.

(20) This matter is continued.

Commissioner Patricia L. West participated in this matter.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.