

Decision No. C23-0116

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 22A-0579G

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

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**COMMISSION DECISION DISMISSING APPLICATION  
WITHOUT PREJUDICE**

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Mailed Date: February 21, 2023  
Adopted Date: February 15, 2023

**I. BY THE COMMISSION**

**A. Statement, Findings, and Conclusions**

1. On December 30, 2022, Atmos Energy Corporation (Atmos Energy) filed an application to open a demand-side management (DSM) strategic issues (SI) proceeding (Application).

2. Atmos Energy states in its Application that it is required by § 40-3.2-103(1), C.R.S., to file an application to open a DSM SI proceeding, which must commence in 2022. Atmos Energy notes that the Commission's rulemaking in Proceeding No. 21R-0449G includes rules governing the substance of DSM SI applications, and that these rules are not yet effective. The company states that it is filing the Application to address the minimal requirements imposed by statute and will address the requirements under the Commission's proposed rules in its subsequent DSM Plan filing. Atmos Energy states that alternatively, it is open to supplementing or amending the Application if the Commission's rules are finalized during the pendency of this Proceeding or as

requested or instructed by the Commission. Atmos Energy includes in its application short proposals and descriptions of its DSM energy savings goal, estimated DSM budget, DSM cost recovery mechanism, and DSM bonus structure.

3. On January 9, 2023, pursuant to Rule 1303 of the Commission's Rules of Practice and Procedure, 4 *Colorado Code of Regulations* 723-1, Trial Staff of the Commission (Staff) sent the company a deficiency letter and filed the letter in the proceeding. In the deficiency letter, Staff asserts that the Application is not supported by testimony and exhibits or by supporting estimates, impacts, and attachments, and that the Application is unclear as to which years the proposals are intended to cover. Staff argues the Application should be deemed incomplete and that the Commission should direct Atmos Energy to file testimony and exhibits with supporting information and specify the relevant time period for the Application.

4. In a response filed on January 19, 2023, the company asserts that it is not required to file testimony or exhibits with its application or specify a time period under review, and it is only obligated to comply with the requirements of § 40-3.2-103(1), C.R.S.

5. Staff, the Colorado Energy Office, and the Office of the Utility Consumer Advocate filed timely notices of intervention of right. Southwest Energy Efficiency Project filed a timely motion to intervene.

6. Section 40-3.2-103(1), C.R.S., states:

Commencing in 2022 and no less frequently than every four years thereafter, each investor-owned gas distribution utility...shall file an application to open a DSM strategic issues proceeding to develop energy savings targets to be achieved by the gas utility, taking into account its potential for cost-effective demand-side management as well as Colorado's greenhouse gas reduction goals. The Commission shall, as part of approving a gas utility's gas DSM strategic issues application, also develop an estimated DSM budget commensurate with natural gas savings targets, funding and cost-recovery mechanisms, and a financial bonus structure for DSM programs implemented by a gas utility.

7. We recognize that Atmos Energy was required to file an application to open a DSM SI proceeding in accordance with § 40-3.2-103(1), C.R.S. However, in this unusual circumstance, we find it appropriate to dismiss the Application without prejudice, and to direct the company to file another DSM SI application on or before May 1, 2023. Such an application may be filed with Atmos Energy's forthcoming DSM Plan, and should contain the following:

- i) an estimated budget, corresponding energy savings and peak capacity reduction goals for all DSM programs;
- ii) funding and cost-recovery mechanisms;
- iii) a proposed methodology for estimating peak demand savings and the resulting cost savings;
- iv) an analysis of the comparative economics of DSM measures and programs, distinguished by the following: new construction; existing homes and businesses; and all building types;
- v) an analysis of the comparative economics of DSM measures and programs, particularly targeted at the weatherization of existing homes, and beneficial electrification;
- vi) a proposed financial bonus structure for DSM programs implemented by the utility, including any methodologies or formulas used to determine the bonus under that structure; and
- vii) a cost effectiveness methodology and assumptions that will be in effect during the time period of the goals and budgets set in the strategic issues proceeding.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The application to open a demand-side management (DSM) strategic issues (SI) proceeding, filed by Atmos Energy Corporation (Atmos Energy), on December 30, 2022, is dismissed, without prejudice.

2. Atmos Energy shall file another DSM SI application on or before May 1, 2023, consistent with the discussion above.

3. The motion to intervene filed by Southwest Energy Efficiency Projects on February 2, 2023, is denied as moot.

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
February 15, 2023.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in black ink, appearing to read 'G. Harris Adams'.

G. Harris Adams,  
Interim Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Commissioners