

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

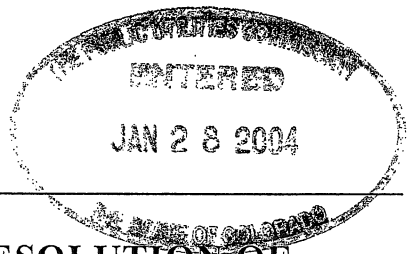
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Appendix A  
Docket No. 03A-484G  
Decision No. R04-0141  
February 5, 2004  
Page 1 of 31

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IN THE MATTER OF THE JOINT )  
APPLICATION OF ATMOS ENERGY )  
CORPORATION AND COMFURT GAS, INC. )  
FOR THE APPROVAL OF THE TRANSFER OF )  
CERTAIN FACILITIES AND PROPERTIES )  
FROM COMFURT GAS, INC. TO ATMOS )  
ENERGY CORPORATION AND AUTHORIZING )  
THE TRANSFER OF ALL CERTIFICATES OF )  
PUBLIC CONVENIENCE AND NECESSITY )  
ISSUED TO COMFURT GAS, INC. FOR )  
SAID NATURAL GAS FACILITIES AND )  
PROPERTIES ON AN EXPEDITED BASIS )  
PURSUANT TO THE COMMISSION'S )  
MODIFIED PROCEDURES )

DOCKET No. 03A-484G



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STIPULATION AND AGREEMENT IN RESOLUTION OF  
PROCEEDING

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This Stipulation and Agreement in Resolution of Proceeding (Stipulation) is entered into by and between Atmos Energy Corporation (Atmos), ComFurT Gas, Inc. (ComFurT) and the Staff of the Public Utilities Commission of the State of Colorado (Staff). Atmos, ComFurT, and Staff are referred to herein collectively as the Parties and individually as a Party. This Stipulation sets forth the terms and conditions by which the Parties have agreed to resolve all issues presented by Atmos and ComFurT's Verified Joint Application (Application) filed in the above-captioned matter that have or could have been contested in this proceeding.

The Parties state that the settlement reached in this proceeding constitutes a just and reasonable resolution of this proceeding and that avoiding litigation in this docket through a negotiated settlement is in the public interest. The Parties further state that approval and implementation of the settlement embodied in this Stipulation will result in substantial savings to all concerned. With the agreements made by Atmos hereinbelow, the Application and the requested authorization for the transfer of the assets and Certificates of Public Convenience and Necessity (CPCNs) of ComFurT to Atmos as set forth in the Application and the Asset Sale and Purchase Agreement (Confidential Exhibit 3 to the Application) are consistent with the public interest as discussed in Colorado Public Utilities Commission (Commission) Decision No. C03-1353 and should be granted. The Parties respectfully request that the Commission approve this Stipulation without modification.

## **I. PROCEDURAL BACKGROUND**

1. On November 4, 2003, Atmos and ComFurT filed their Application seeking, among other things, Commission approval of the transfer of certain natural gas facilities and properties from ComFurT to Atmos and authorizing the transfer of all CPCNs issued to ComFurT for such natural gas facilities and properties. In support of their Application, Atmos and ComFurT filed Direct Testimony and Exhibits of Mr. David L. Anglin on behalf of Atmos and Mr. Randy A. Crane on behalf of ComFurT.

2. On November 5, 2003, the Commission gave public Notice of the Application (Notice of Application). In that Notice of Application, the Commission established a shortened intervention period and a procedural schedule.

3. On or about November 24, 2003, Staff filed its Notice of Intervention, Entry of Appearance and Request for Hearing (Notice of Intervention). In its Notice of Intervention, Staff articulated a number of issues surrounding the proposed acquisition that it sought to investigate more closely. Staff is the only intervenor in this Docket.

4. On or about December 4, 2003, the Commission mailed Decision No. C03-1353, by which the Commission deemed the Application complete and assigned the matter to an Administrative Law Judge (ALJ) for determination. By Decision No. C03-1353, the Commission granted Atmos and ComFurT's request for expedited consideration. In addition, the Commission provided the Parties with guidance regarding the scope of the issues to be addressed at hearing. One of the governing decisions<sup>1</sup> referred to by the Commission in Decision No. C03-1353 sets forth the use of the producer and consumer welfare maximization standard in approving mergers<sup>2</sup> but makes clear that there is no limit imposed by said Order as to settlement of disputed issues.

5. On December 10, 2003, presiding ALJ Jennings-Fader issued Decision No. R03-1384-I, wherein the ALJ vacated the existing procedural schedule in the proceeding and set a prehearing conference to be held on December 18, 2003.

6. On December 17, 2003, Atmos and ComFurT filed a Motion for Leave to File Supplemental Direct Testimony and Exhibits (Motion for Leave) in this matter.

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<sup>1</sup> Decision No. C99-1052, ¶ 11, pp. 5 and 6.

<sup>2</sup> Atmos and ComFurT do not consider Atmos' purchase of ComFurT's natural gas facilities and properties as contemplated by their Asset Sale and Purchase Agreement to be a merger, but have agreed not to challenge the application of the "producer and consumer welfare maximization" standard in reviewing their proposed transaction.

Atmos and ComFurT filed the Supplemental Direct Testimony by Mr. David L. Anglin on behalf of Atmos and Mr. Randy A. Crane on behalf of ComFurT (collectively, Supplemental Testimony) along with the Motion for Leave. The purpose of such Supplemental Testimony was to allow Atmos and ComFurT to speak directly to the areas of inquiry that the Commission articulated in Decision No. C03-1353 relative to the scope of the proceeding.

7. On December 18, 2003, the ALJ convened a prehearing conference in this matter, at which the ALJ granted Atmos and ComFurT's Motion for Leave and approved the Parties' proposed procedural schedule to govern this matter.

8. Subsequent to the prehearing conference, representatives of Atmos, ComFurT, and Staff met to discuss the general areas of concern articulated in Staff's Notice of Intervention. Thereafter, the Parties held additional discussions in an effort to resolve any concerns that the Staff had regarding Atmos' acquisition of ComFurT's natural gas facilities and properties within the State of Colorado.

9. Those discussions and negotiations have resulted in the Parties resolving all issues that were or could have been raised in this proceeding. This Stipulation represents the results of those negotiations.

10. On January 6, 2004, the ALJ issued Decision No. R03-0009-I, an Interim Order in which the ALJ established further procedural dates, certain discovery response and motion times, and narrowed the issues to be considered in connection with this matter.

## II. ATMOS' AND COMFURT'S TESTIMONY AND EXHIBITS

11. ComFurT prefiled testimony and exhibits setting forth relevant information describing ComFurT's operations and the facts and circumstances leading up to its decision to sell its natural gas facilities and properties to Atmos. ComFurT testified that:

(a) ComFurT is a small family-owned business with a total of five (5) full-time and one half-time employees carrying out the natural gas utility operations. ComFurT's President, Mr. Randy A. Crane, has primary responsibility for all of the day-to-day operations of ComFurT, including matters such as natural gas purchasing, system design and construction, system maintenance and operations, regulatory oversight and compliance, employment, personnel matters, office and accounting functions.

(b) For approximately 50 years, ComFurT has operated as a public utility providing natural gas utility service to customers in the Town of Buena Vista, Colorado, and in areas in Chaffee County, Colorado adjacent to the Town. ComFurT's natural gas public utility operations are subject to jurisdiction by the Commission. They are conducted pursuant to a franchise issued by the Town of Buena Vista and CPCNs and other authorizations issued by the Commission. Today, ComFurT provides natural gas utility service to approximately 1,800 residential, small commercial and industrial customers pursuant to such CPCNs and authorizations. Service to such customers is provided by ComFurT through approximately 265,039 feet of underground natural gas mains and approximately 126,050 feet of service lines.

(c) ComFurT has reluctantly determined that it is not of a sufficient size that will allow it to continue to operate effectively and efficiently given the business and regulatory environments that exist today for natural gas utilities.

(f) Because of its small size, ComFurT has experienced increasing difficulty acquiring natural gas supplies for its customers directly from the producer or supplier. ComFurT formerly acquired wholesale natural gas from eprime, Xcel Energy's natural gas sales affiliate. That company will no longer wholesale natural gas to ComFurT because of its small size. ComFurT has acquired gas from the gas field served by Red Cedar Gathering System. BP Amoco, which controls most of the production of natural gas from this field, will not deal with ComFurT because of its small size. ComFurT has been forced to deal with intermediary brokers of natural gas, thus raising concerns of price and reliability. Similarly, ComFurT is not of a sufficient size to allow it to maintain the in-house expertise that will ensure that ComFurT is in compliance with the increasing range of safety and operational regulatory requirements for natural gas utilities, including but not limited to, those promulgated by the Department of Transportation, EPA, OSHA, and the Department of Homeland Security. ComFurT is likewise not of a sufficient size that allows it to keep up with the substantial advances in technology that affect virtually every aspect of its business, ranging from pipe joining processes to electronic metering methods, billing and collection systems, and handling service requests.

(e) In the face of these hurdles, the only way that ComFurT can hope to effectively and efficiently operate going forward is to add additional full-time highly skilled employees, as well as engage the services of outside consultants. It will also require substantial additional investment in equipment. However, for a company the small size of ComFurT, this is not a feasible option, particularly in light of the relatively few number of customers over which these substantial new costs must be spread.

(f) Thus, after careful analysis and extensive consideration, the family that owns ComFurT has determined that they must divest the natural gas utility business. They are unable to effectively manage it any longer.

(g) Having made this decision, ComFurT negotiated with Atmos for the sale of all of ComFurT's natural gas facilities and properties within the State of Colorado to Atmos.

12. Atmos prefiled testimony and exhibits setting forth relevant information describing Atmos' operations within the State of Colorado and its unique proximity to ComFurT's service area and customers, together with Atmos' explanation of the nature and extent of a variety of producer and consumer welfare gains that will be experienced if Atmos is authorized to acquire ComFurT's natural gas facilities and properties as requested in the Application. Atmos testified that:

(a) Atmos currently serves approximately 104,000 customers within the State of Colorado. Atmos' existing service area and customer base include

customers in and around Chaffee County, Colorado and up to within two miles to the south and west of ComFurT's service area. No other utility has a service area as reasonably close to that of Atmos. As a result, Atmos is uniquely situated to integrate ComFurT's customers and service area into the Atmos system seamlessly and without any difficulty whatsoever. This acquisition by Atmos benefits Atmos' existing customers by adding to Atmos' scope and scale economics.

(b) Upon becoming Atmos customers, the ComFurT customers will become a part of a much larger organization that has more stability and that already has in place an extensive operational and administrative infrastructure that it utilizes to ensure that it provides safe, reliable and reasonably priced natural gas utility service to all of its customers, which ComFurT could never duplicate for its customers.

(c) As part of the Atmos system, the ComFurT customers will experience customer benefits, or "welfare maximization," in at least three overarching areas, including the customer service function, the operations function, and the financial function.

(d) Relative to the customer service function, Atmos has in place a centralized network for administrative support, including a customer support center, billing system and bill payment processing system. Through these systems, ComFurT customers will have access to customer service support 24 hours a day, seven days a week, 365 days a year. They will also have access to a wide variety of billing and payment options from which they may choose in order to best



accommodate their individual needs. As Atmos customers, the former ComFurT customers will benefit from the deployment of a number of advanced technologies that would be out of the realm of possibility for ComFurT to deploy, including without limitation, technologies that support the electronic metering, service order, dispatching and records keeping functions of Atmos. These advanced technologies will eliminate the current manual transactions that ComFurT employs today, greatly reduce the possibility of error in customers bills, and ensure the provision of more timely and substantially more efficient service to customers going forward.

(e) Relative to the operations function, Atmos' size, scope, and national presence results in significant economies of scale relative to its operations, such that it is more fully capable of meeting the increasing operational and regulatory demands that can and presently are overwhelming ComFurT. The systems, processes, expertise, and personnel necessary for Atmos to ensure compliance with DOT, EPA, and OSHA regulations, among others, are already in place for Atmos, where, in contrast, they will need to be implemented by ComFurT, at great expense.

(f) Atmos will also bring the benefits associated with significant purchasing power in the natural gas markets (and other markets) to bear for the ComFurT customers. For example, because of its national presence, Atmos has access to virtually every natural gas supplier and will introduce the full scope of the competitive market to the ComFurT customers. In addition, Atmos maintains

a staff of professional personnel that oversee both the purchasing and delivery functions. Due to the proximity of Buena Vista to Atmos' service area of Salida in Atmos' Northwest/Central rate division and the fact that Buena Vista and the Northwest/Central rate division share one interconnecting pipeline company, Public Service Company of Colorado, Atmos can arrange for the delivery of natural gas supplies necessary to serve the additional load associated with the ComFurT customers with no additional resources. These are benefits that ComFurT cannot economically provide to its customers.

(g) Relative to the financial function, as of September 2003, Atmos has \$2.5 billion of assets and \$857.7 million of shareholders' equity. Atmos is also investment grade rated by Standard & Poors Corporation, Fitch Ratings, and Moody's Investors Services. Atmos has a commercial paper program and access to significant lines of credit, all of which establish Atmos as a strong and financially worthy company for the purposes of owning and operating the ComFurT natural gas system into the indefinite future. These financial characteristics are substantially more favorable than ComFurT (and by implication its customers) could ever hope to enjoy.

(h) Atmos recognizes that the size, scope, and national presence of its operations translate into a higher level of total costs, albeit spread over more service areas. Nevertheless, the substantial costs that ComFurT would otherwise incur to address the numerous challenges facing ComFurT relative to its customer service, operations, and financial functions far exceed the allocation of a portion

of Atmos' total costs to the ComFurT customers, thus resulting in a net benefit to ComFurT customers. Additionally, Atmos' acquisition of ComFurT's natural gas facilities and properties will result in a wide variety of welfare gains to ComFurT customers as articulated by the Commission in Decision No. C03-1353, such as the realization of synergies, economies of scope and scale, cost savings, more favorable access to markets, more rapid deployment of technology and increased efficiencies.

13. Atmos and ComFurT intend that Atmos' acquisition of the ComFurT facilities and properties within the State of Colorado be consummated pursuant to the terms and conditions of their October 16, 2003 Asset Sale and Purchase Agreement (Confidential Exhibit No. 3 to the Application). The facilities and properties being acquired will be recorded on Atmos' books at original cost less depreciation, or book value.

14. Atmos is not seeking in this proceeding to change the rates or the terms and conditions under which ComFurT is currently providing natural gas service to the affected customers, but rather intends for some time into the future to continue to provide service to the newly acquired ComFurT customers pursuant to the rates and terms and conditions of service contained in ComFurT's Colorado PUC No. 1 Gas Tariff on file with and approved by the Commission as of the closing date of the acquisition. Atmos will, however, consider the ComFurT service area as being part of Atmos' Northwest/Central rate division.

### III. STAFF'S INTERVENTION

15. In its Notice of Intervention, Staff articulated a number of issues surrounding the proposed transfer of certain facilities and properties, and all associated CPCNs from ComFurT to Atmos that it sought to investigate more closely.<sup>3</sup> The issues articulated by Staff are:

1. Whether the sales and transfer is not “not contrary to public interest;”
2. What is the price paid by Atmos for ComFurT’s assets;
3. Whether the price paid by Atmos for ComFurT’s assets is justified and prudent;
4. What are the amount and the proposed treatment of acquisition premium;
5. Whether the “merger”<sup>4</sup> will result in synergy and savings to customers of ComFurT;
6. Whether said savings should be captured in rates for the benefit of ComFurT’s customers;
7. Whether it is appropriate for Atmos to simply adopt ComFurT’s tariffs as to rates, terms and conditions of service;
8. Whether it is appropriate for Atmos not to state any commitment as to the length of time for such adoption;
9. What is the proper length of time for such adoption;
10. What are the accounting entries for the transaction;
11. What reporting requirements should be imposed upon the closing of the transaction; and
12. Other issues identified during the course of Staff audit and investigation.

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<sup>3</sup> By Decision No. R03-0009-I, ALJ Jennings-Fader ruled that Staff’s issues 3 and 6 are outside the scope of this proceeding and therefore are not addressed in this Stipulation.

<sup>4</sup> See n. 2, *supra*.

#### IV. TERMS OF SETTLEMENT

16. With regard to Staff issue 1 (whether the sale and transfer is not “not contrary to public interest”), the Parties have applied the principles contained in Decision Nos. C99-1052 and C99-1147 and believe that the sale and transfer is not contrary to the public interest. Specifically, the Parties agree that the transaction will result in “producer and consumer welfare maximization,” as set forth in Decision Nos. C99-1052 and C99-1147.

17. With regard to Staff’s issues 2 (the price Atmos paid for ComFurT’s assets) and 4 (the amount and the proposed treatment of acquisition premium), Atmos agrees that it will not seek to recover, in this or any future proceeding, any premium above depreciated book value that it may pay to ComFurT for the purchase of ComFurT’s natural gas facilities and properties within the State of Colorado as contemplated by the Asset Sale and Purchase Agreement (Confidential Exhibit No. 3 to the Application). Atmos’ agreement not to seek recovery on any acquisition premium associated with this sale and transfer of assets completely addresses Staff’s issues 2 and 4.

18. With regard to Staff’s issue 5 (whether the “merger”<sup>5</sup> will result in synergy and savings to customers of ComFurT), the Parties agree the costs ComFurT would otherwise incur to improve its operations exceed the increased cost allocations from Atmos. The Parties note that the transfer of assets described in the Application does not represent a situation where two similar organizations are coming together to consolidate

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<sup>5</sup> See n. 2, *supra*.

duplicative infrastructure to save costs. Instead, the transfer of assets is reflective of a small family-run business seeking to fold its utility operations into an established neighboring utility in order to avoid the substantial cost of building the infrastructure required to operate in today's market and regulatory environment. For this reason, Staff believes the proposed transaction is not a merger of equals in which one would otherwise expect to see merger-related synergies achieved.<sup>6</sup> As reiterated herein by Atmos in Paragraph Nos. 12(c) through (h), Atmos filed supplemental testimony after Staff's invention to highlight the benefits from the perspective of customer service, operations, and financial functions. Staff is satisfied with the representation that the cost avoidance by ComFurT materializes as net cost savings to ComFurT customers after consideration of allocation of joint and common cost from Atmos.

19. With respect to Staff's issues 7 (whether it is appropriate for Atmos to simply adopt ComFurT's tariffs as to rates, terms and conditions of service), 8 (whether it is appropriate for Atmos not to state any commitment as to the length of time for such adoption), and 9 (the proper length of time for such adoption), Atmos agrees that it will not seek to change the Local Distribution Company (LDC) rates (sometimes referred to as base rates) currently in effect for the ComFurT customers being acquired by Atmos until January 1, 2006 and that any such filing to change LDC rates will utilize a test period ending no earlier than the 12-months ending December 31, 2005. The Parties agree that for the purposes of this Paragraph No. 19, the ComFurT LDC rates that

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<sup>6</sup> In a merger of equals, the superior aspects of each organization's systems will survive while the inferior aspects of each organization's systems will be eliminated. Thus, each contributes to make the total system better than they would individually be capable. As described, this is not a merger of

Atmos agrees to maintain in place are the base rates that are specifically set forth in ComFurT's Colorado PUC No. 1 Gas Tariff, on file with and approved by the Commission and in effect on the closing date of the transaction between Atmos and ComFurT contemplated by the Application (please refer to Attachment 1, Atmos' response to Staff's audit, for a comparison of rates).

20. The Parties agree, however, that nothing herein shall limit or otherwise restrict in any way Atmos' ability to file a rate case relative to all or any portion of its existing systems within the State of Colorado and that the limitation on not changing the rates for ComFurT customers as discussed in Paragraph No. 19 above is limited only to such ComFurT customers.

21. Atmos' agreement to maintain the current ComFurT LDC rates as set forth in Paragraph No. 19 above shall likewise not apply to the changes in Gas Cost Adjustment (GCA) rates applicable to the ComFurT customers. The Commission GCA rules require that GCA rates be changed at least annually. With regard thereto, the Parties agree that Atmos shall include the ComFurT service area within Atmos' Northwest/Central rate division for purposes of developing and implementing the GCA rate to be charged ComFurT customers in any future GCA filing by Atmos relative to its Northwest/Central rate division, but in no event later than in its next annual GCA filing to be effective November 1, 2004. The Parties represent that the current differences in GCA rates between ComFurT and Atmos are minimal (please refer to rates under Gas

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equals: ComFurT may individually be incapable of adding the requisite infrastructure, while Atmos already has such infrastructure in place. ComFurT does not contribute to the synergy.

Commodity column in Attachment 2) and changes in GCA rates as contemplated herein are small.

22. Except as otherwise provided in Paragraph Nos. 19 through 21, above, the tariff of rates, charges, rules, and regulations embodied by ComFurT's Colorado PUC No. 1 Gas Tariff on file with and approved by the Commission as of the date of closing of the transaction between Atmos and ComFurT contemplated by the Application shall be and become the tariff of rates, charges, rules and regulations of Atmos relative to the ComFurT customers being acquired by Atmos, until such time as they may be changed by Atmos in accordance with law and the Commission's rules and regulations.

23. With regard to Staff's issue 10 (accounting entries for the transaction), Atmos has provided Staff, through audit responses (Attachment 3), the proposed journal entries on a pro-forma basis, which Atmos agrees to true up upon closing of the transaction.

24. With regard to Staff issues 11 (reporting requirements to be imposed upon the closing of the transaction) and 12 (other issues identified during the course of Staff audit and investigation), Atmos and ComFurT agree to file accounting entries evidencing consummation of the transaction contemplated by the Application within thirty (30) days after the closing of the transaction. Such accounting entries shall comply in all respects with the Commission's applicable rules. In addition, Atmos agrees to maintain accounting information down to the sub-account level of detail relative to direct cost of service expenses incurred in conjunction with its acquisition of the ComFurT natural gas facilities and properties. This will be accomplished by establishing a separate "rate



division" within Atmos' chart-of-accounts for cost of service expenses. Furthermore, Atmos shall allocate indirect cost of service expenses relative to the acquisition of the ComFurT natural gas facilities and properties in the same manner as Atmos allocates such indirect expenses for its Northwest/Central rate division.

25. The Parties agree that the Commission should grant the relief Atmos and ComFurT specifically request in Paragraph No. 3 of the Application.

26. The Parties agree that the transfer of ComFurT's natural gas facilities and properties within the State of Colorado to Atmos as described in the Application will result in producer and consumer welfare gains of the nature described in Decision No. C99-1052 and, as a result, is not contrary to the public interest. The Parties further agree that Atmos is fit, willing, and able, financially and otherwise, to properly operate the natural gas facilities and properties to be acquired from ComFurT and to perform the service authorized and set forth in the CPCNs to be acquired from ComFurT. As a result of the foregoing, the Parties agree that the Commission should approve the Application without modification.

#### **IV. IMPLEMENTATION**

27. This Stipulation shall not become effective until the issuance of a final Commission order approving the Stipulation, which order does not contain any modification of the terms and conditions of this Stipulation that is unacceptable to the Parties hereto. In the event the Commission modifies this Stipulation in a manner unacceptable to any Party hereto, that Party shall have the right to withdraw from this Stipulation and proceed to hearing on some or all of the issues that may be appropriately

raised by that Party in this Docket under a new procedural schedule. The withdrawing Party shall notify the Commission, and the other Party to this Stipulation, in writing within ten (10) days of the date of the Commission order that the Party is withdrawing from the Stipulation (such notice being referred to as the Notice). A Party who properly serves a Notice shall have and be entitled to exercise all rights the Party would have had in the absence of the Party's agreeing to this Stipulation. Hearing shall be scheduled on an expedited basis, as soon as practicable.

28. In the event that this Stipulation is not approved, or is approved with conditions that are unacceptable to any Party who subsequently withdraws, the negotiations or discussions undertaken in conjunction with the Stipulation shall not be admissible into evidence in this or any other proceeding.

29. Commission approval of this Stipulation shall constitute a determination that the Stipulation represents a just, equitable and reasonable resolution of all issues that were or could have been contested among the Parties in this proceeding, except as otherwise specifically noted in this Stipulation. The Parties agree to submit this Stipulation to the Commission expeditiously so that its approval and the transfer authorizations may be obtained without material change within a short period of time. To that end, the Parties each agree to proceed in good faith with reasonable best efforts to obtain Commission approval of this Stipulation and to do all that is reasonably necessary to obtain such approval including, but not limited to, introducing evidence and testimony in support of this Stipulation, appearing at all hearings and filing all necessary pleadings and documents.

30. Evidence of conduct or statements made in negotiations and discussions in connection with this Stipulation shall not be admissible in any proceeding, except as may be necessary to enforce the provisions of this Stipulation or any Commission decision approving this Stipulation.

31. This Stipulation may be executed in counterparts and by facsimile copies of signatures, all of which when taken together shall constitute the entire agreement between the Parties with respect to the issues addressed by this Stipulation.

32. The Parties agree to a waiver of compliance with any requirement of the Commission's Rules and Regulations to the extent necessary to permit all provisions of this Stipulation to be carried out and effectuated.

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Dated this 17<sup>th</sup> day of January 2004.

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Dated this 27<sup>th</sup> day of January, 2004.


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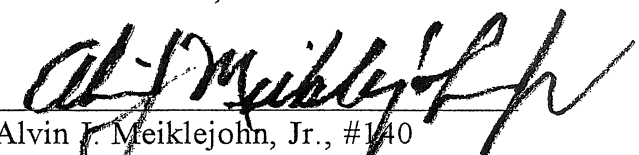
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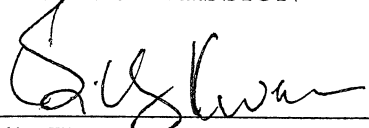
**APPROVED:**  
COMFURT GAS, INC.

By: \_\_\_\_\_  
Randy A. Crane, President  
102 Linderman Avenue  
Buena Vista, Colorado 81211  
(719) 395-0212

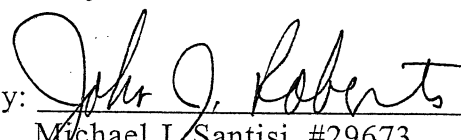
**APPROVED AS TO FORM:**  
JONES & KELLER, PC

By: \_\_\_\_\_  
Alvin J. Meiklejohn, Jr., #140  
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(303) 295-8291  
ATTORNEYS FOR COMFURT GAS, INC.

**APPROVED:**  
STAFF OF THE COLORADO PUBLIC  
UTILITIES COMMISSION

By:   
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**APPROVED AS TO FORM:**  
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By:   
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ATTORNEYS FOR STAFF OF THE  
PUBLIC UTILITIES COMMISSION OF  
THE STATE OF COLORADO

CERTIFICATE OF SERVICE

I hereby certify that on this 27 day of January, 2004, an original and 5 true and correct copies of the foregoing document entitled Stipulation and Agreement in Resolution of Proceeding was hand-delivered to:

Bruce Smith, Director  
Colorado Public Utilities Commission  
1580 Logan OL2  
Denver, CO 80203

And a copy was placed in the United States Mail, postage prepaid and addressed to:

Kenneth V. Reif, Director  
Office of Consumer Counsel  
1580 Logan Street, Suite 740  
Denver, CO 80203

Randy Garrouette  
Public Utilities Commission  
1580 Logan Street, OL-2  
Denver, CO 80203

Billy Kwan  
Public Utilities Commission  
1580 Logan Street, OL-2  
Denver, CO 80203

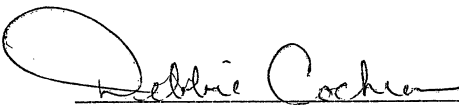
Frank Shafer  
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Denver, CO 80203

  
\_\_\_\_\_

**ATTACHMENT 1**



Docket No. 03A-484G / Exhibit

PUC1-5

A) Monthly Service and Facilities Charge:

Atmos:	Residential - \$ 9.00	ComFurT:	Residential - \$ 5.30
	Commercial - \$ 21.50		Commercial - \$ 8.60
	Interruptible -		Interruptible - \$33.75
	Small       \$265.00		
	Large       \$910.00		
	Other       \$365.00		

B) Itemized Component / Total Commodity Rate Per CCF:

Atmos commodity rates are from the Northwest/Central rate division. This rate area was used as it geographically includes Salida and Gunnison; Buena Vista is located in-between Salida and Gunnison. In the future, this would be the logical rate area to include Buena Vista.

\*Please note: Atmos Energy bills at 14.65 pressure base; ComFurT bills at 11.21 pressure base. In order to create a more reasonable comparison, ComFurT rates are listed at their current 11.21 pressure base billing as well as what they would be if billing was set at 14.65. The 14.65 pressure base billing rate is highlighted in red for this purpose.

Atmos:	Residential \$0.71262	ComFurT:	Residential \$0.5407
	Commodity - \$0.54010		Commodity - \$0.3751
	Upstream - \$0.07940		Upstream - \$0.0775
	Deferred - (\$0.05700)		-----
	LDC - \$0.15012		LDC - \$0.0881
	Pressure Base - 14.65		Pressure Base - 11.21
			* <del>Pressure Base - 14.65</del>
	Commercial \$0.68976		Commercial \$0.5407
	Commodity - \$0.54010		Commodity - \$0.3751
	Upstream - \$0.07940		Upstream - \$0.0775
	Deferred - (\$0.05700)		-----
	LDC - \$0.12726		LDC - \$0.0881

Pressure Base – 14.65

Pressure Base – 11.21

\* ~~Pressure Base – 14.65~~  
~~\$1.204~~

~~Interruptible: \$0.65049~~

~~Interruptible: \$0.4692~~

Commodity - \$0.54010  
Upstream - \$0.0.7940  
Deferred - (\$0.05700)  
LDC - \$0.08799

Commodity - \$0.3611  
Upstream - \$0.0390  
-----  
LDC - \$0.0691

Pressure Base – 14.65

Pressure Base – 11.21

~~Pressure Base – 14.65~~  
~~\$0.412~~

C) Average Monthly Total Customer Bill:

~~Residential -~~

Atmos Northwest/Central Rate Area:

Average Annual Usage – 76 ccf  
Average Monthly Bill - \$63.04

ComFurT:

Average Annual Usage – 94 ccf  
Average Monthly Bill - \$58.04

~~Commercial -~~

Atmos Northwest/Central Rate Area:

Average Monthly Usage – 373 ccf  
Average Monthly Bill - \$278.44

ComFurT:

Average Monthly Usage – 290 ccf  
Average Monthly Bill - \$165.64

D) Average Summer Total Customer Bill:

Average summer total customer bill information is not available at this time but will be provided as soon as the information becomes available.

Addendum:

Average summer season – June, July, August

Atmos Northwest/Central Rate Area:

Average Monthly Usage – 24 ccf  
Average Monthly Bill - \$27.02

ComFurT:

Average Monthly Usage – 30 ccf  
Average Monthly Bill - \$21.84

E) Average Customer Bill – Heating Season:

Average heating season customer bill information is not available at this time but will be provided as soon as the information becomes available.

Addendum:

Average heating season – November, December, January, February

Atmos Northwest/Central Rate Area:

Average Monthly Usage – 126 ccf  
Average Monthly Bill - \$100.77

ComFurT:

Average Monthly Usage – 151 ccf  
Average Monthly Bill - \$87.40

ATTACHMENT 2

Appendix A  
Docket No. 03A-484G  
Decision No. R04-0141  
February 5, 2004  
Page 28 of 31

COMPARISON OF RATES BETWEEN COMFURT AND ATMOS' NORTHWEST/CENTRAL RATE AREA  
(Revised per Questions from R04-0119-I)

Residential

	<u>Monthly</u>	<u>LDC</u>	<u>Upstream Pipeline</u>	<u>Gas Commodity</u>	<u>Total Commodity</u>
ComFurT	5.3	0.1151	0.1013	0.4902	0.7066
Atmos	9	0.15012	0.0794	0.4831	0.7126
Change	3.7				0.0
% Change	69.81%				0.85%

Commercial

	<u>Monthly</u>	<u>LDC</u>	<u>Upstream Pipeline</u>	<u>Gas Commodity</u>	<u>Total Commodity</u>
ComFurT	8.6	0.1151	0.1013	0.4902	0.7066
Atmos	21.5	0.12726	0.0794	0.4831	0.6898
Change	12.9				0.0
% Change	150.00%				-2.39%

Interruptible

	<u>Monthly</u>	<u>LDC</u>	<u>Upstream Pipeline</u>	<u>Gas Commodity</u>	<u>Total Commodity</u>
ComFurT	33.8	0.0903	0.0510	0.4719	0.6132
Atmos	265	0.08799	0.0794	0.4831	0.6505
Change	231.3				0.0
% Change	685.19%				6.08%

Footnote: Information based on the last GCA filings. Docket No. 03L-445G for Atmos  
& Docket No. 03L-444G for ComFurT.  
Atmos's rates @ 14.65 psi  
ComFurT tariffed rates @ 11.21 psi but converted to 14.65 psi for purposes of comparison

**ATTACHMENT 3**

Atmos Energy Corp.  
Proforma Accounting Entries for ComFurT Gas asset purchase

Fixed Assets	1,247,328		
Accounts Receivable	200,000		
Materials & Supplies Inventory	40,500		
Prepayments	7,000		
Purchased Gas Cost Adjustment	40,000		
Goodwill	1,339,441		
Cash		1,950,000	
Accum - DD&A		657,913	
Accounts Payable - Trade		250,000	
Sales Tax Payable		6,000	
Municipal Charge Payable		10,000	
Refund Account		356	
	2,874,269	2,874,269	