

Decision No. C23-0855

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

PROCEEDING NO. 23A-0564FG

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IN THE MATTER OF ATMOS ENERGY CORPORATION'S APPLICATION FOR AN ORDER GRANTING IT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE FRANCHISE RIGHTS IN THE TOWN OF HAYDEN, COUNTY OF ROUTT, COLORADO.

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**COMMISSION DECISION DEEMING APPLICATION  
COMPLETE AND GRANTING THE APPLICATION**

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Mailed Date: December 27, 2023

Adopted Date: December 20, 2023

**I. BY THE COMMISSION**

**A. Statement**

1. This matter comes before the Commission for consideration of an Application filed by Atmos Energy Corporation (Atmos or Company) on November 15, 2023, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the Town of Hayden, Routt County, in the State of Colorado (Hayden or Town).

2. Atmos also requests a waiver of Commission Rule (4002(b)(IX) of the Rules Regulating Gas Utilities, 4 *Code of Colorado Regulation* (CCR) 723-4.

3. The Commission provided notice of this Application on November 17, 2023, to all interested persons, firms, and corporations. No petition to intervene or notice of intervention has been filed, and thus the Application is uncontested. Accordingly, the Application will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403,

4 *Code of Colorado Regulations* (CCR) 723-1 of the Commission's Rules of Practice and Procedure.

4. Atmos is engaged in, *inter alia*, the transmission, purchase, distribution, and sale of natural gas service in its certificated areas in the State of Colorado. The Town is located within such certificated areas.

5. Atmos requests the Commission issue a Decision granting it a CPCN to exercise franchise rights in Hayden. Pursuant to Ordinance No. 728, adopted October 18, 2023, the Town granted Atmos a ten-year franchise to provide natural gas service within Hayden that took effect October 5, 2023, and expires October 4, 2033.

6. On December 12, 1964 Hayden passed and adopted Ordinance No. 138, granting Atmos' predecessor, Greeley Gas Company, a franchise to provide natural gas service within Hayden. On May 24, 1966, the Commission, in Decision No. 67427, Application No. 21955, granted Greeley Natural Gas Company, a CPCN to exercise franchise rights as described in Ordinance No. 138.

7. On May 7, 2002, Hayden passed and adopted Ordinance No. 515 Series 2002, granting Atmos a franchise to provide natural gas service within Hayden. On June 24, 2002, the Commission, in Decision No. C02-0699, Application No. 02A-294F, granted Atmos a CPCN to exercise franchise rights as described in Ordinance No. 515 Series 2002.

8. On February 2, 2012, Hayden passed and adopted Ordinance No. 644, granting Atmos a franchise to provide natural gas service within Hayden. On March 23, 2012, the Commission, in Decision No. C12-0323, Application No. 12A-149FG, granted Atmos a CPCN to exercise franchise rights as described in Ordinance No. 644.

9. A utility wishing to exercise any franchise agreement or privileges entered into with a municipality must obtain a CPCN from the Commission pursuant to § 40-5-102, C.R.S. When the municipality and utility enter into a franchise agreement, that agreement must be submitted to the Commission for approval. *See* § 40-5-102, C.R.S. Such applications allow the Commission to review franchise agreements to ensure that the terms are reasonable and in the public interest.

10. The Commission understands the utility and the municipality may want to revise the terms established in a franchise agreement at some point in the future and that existing franchise agreements have scheduled expiration dates. Upon negotiation of a new or amended franchise agreement, the utility shall return to the Commission in a timely manner to obtain authorization to implement the provisions of the new franchise agreement. In the event that this franchise is not renewed at the expiration of its term or is terminated for any reason, the Company is directed to notify the Commission in a timely manner.

11. According to the franchise agreement, as consideration for the franchise rights is granted and in recognition of Atmos' right to use the Town streets, the Town requires Atmos to collect and remit to the Town a franchise fee equal to five percent of all revenues received from the sale of natural gas service within the Town; excluding revenues received from the Town for the sale of natural gas service to the Town.

12. No other utility is authorized to provide natural gas utility service within the areas for which Atmos seeks a certificate in this application.

13. We find the franchise is required by public convenience and necessity and the terms of the franchise agreement are just, reasonable, and in the public interest. However, in the event that issues of revenue requirement, cost allocation, and rate design are implicated by any

provision of the franchise agreement, those issues will be analyzed in an appropriate Commission proceeding. Approval of the franchise agreement does not constitute approval of, or precedent regarding any principle or issue in revenue requirement, cost allocation, or rate design in any natural gas adjustment, refund, or rate case proceedings.

14. Atmos currently provides gas service in the Town and because the areas encompassed by the Hayden franchise is being served, the Company is not required to provide a feasibility study for each area as set forth in Rule 4100(b)(VI), 4 CCR 723-4 of the Commission's Rules Regulating Gas Utilities.

15. We find that Atmos has the financial ability and is qualified and competent to conduct the utility operations sought under its application.

16. Atmos' natural gas service tariffs, currently on file with the Commission, will be used for service under this Application.

17. Providing uninterrupted service to the residents of Hayden is in the public interest. Therefore, the Commission finds that the Application is in the public interest and should be granted.

## **II. ORDER**

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

1. The Application filed by Atmos Energy Corporation, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights pursuant to Ordinance No. 728 in the Town of Hayden, is deemed complete and granted.

2. The grant of the CPCN to operate under the terms of this franchise agreement is in the public interest and in accordance with the terms of § 40-5-102, C.R.S.

3. The request by Atmos to waive Rule 4002(b)(IX), 4 *Code of Colorado Regulations* 723-4, due to a financial burden on Atmos and its customers is granted.

4. The franchise shall remain in effect for a period of ten years and terminates on October 4, 2033.

5. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
December 20, 2023.**

(SEAL)



ATTEST: A TRUE COPY

Rebecca E. White,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners