

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0282G

IN THE MATTER OF ATMOS ENERGY CORPORATION’S APPLICATION FOR APPROVAL
OF ITS INITIAL GAS PERFORMANCE INCENTIVE MECHANISM.

**RECOMMENDED DECISION GRANTING UNOPPOSED
APPLICATION**

Issued Date: September 29, 2025

I. STATEMENT AND SUMMARY

1. This Decision grants the above-captioned application and closes this Proceeding.

II. PROCEDURAL HISTORY

2. On June 30, 2025, Atmos Energy Corporation (“Atmos” or “Applicant”) filed a Verified Application (“Application”) for approval of its initial Gas Performance Incentive Mechanism (“GPIM”).

3. On July 1, 2025, the Commission provided public notice of the Application, stating the Application is “for approval to implement a [GPIM].”¹

4. On August 4, 2025, Trial Staff of the Commission (“Trial Staff”) filed a Notice of Intervention as of Right by Trial Staff of the Commission, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing (“Intervention”). In its Intervention, Trial Staff noted it was using its authority to intervene as a placeholder in the event it opposed Applicant’s requested relief.²

¹ Notice of Application at p. 1.

² Intervention at p. 1.

5. On August 20, 2025, the Commission referred the matter to an Administrative Law Judge (“ALJ”) by minute entry.

6. On September 5, 2025, Trial Staff withdrew its Intervention, claiming that after further review of the Application, Direct Testimony, and attachments, “...Staff has identified no objections to [the Application].”³

III. FINDINGS AND DISCUSSION

A. Relevant Law

7. The Commission has extensive and broad constitutional and statutory authority to regulate public utility rates, services, and facilities.⁴ The General Assembly has charged the Commission with ensuring that utilities provide safe and reliable service to customers at just and reasonable rates.⁵ To this end, § 40-3-102.5(2)(a), C.R.S., required the Commission to adopt Rules that establish mechanisms to align a utility’s financial incentives with its customers’ interests as to incurred fuel costs.⁶ The Commission must design such mechanisms to protect customers and improve the utility’s management of fuel costs, and the Commission must tailor the mechanisms to apply to different utilities based on a utility’s size or ability to implement the mechanisms.⁷

8. The Commission promulgated rules under § 40-3-102.5(2)(a), C.R.S. Rule 4607, 4 *Code of Colorado Regulations* (“CCR”), 723-4, requires a utility to implement a GPIM for each gas cost adjustment (“GCA”) rate area with more than 50,000 customers. Relevant here, Rule 4607(a) requires a utility with more than 50,000 but less than 500,000 full service customers to

³ Notice of Withdrawal of Intervention as of Right by Trial Staff of the Commission at p. 1.

⁴ *Pub. Serv. Co. of Colo. v. Pub. Util. Comm’n*, 350 P.2d 543, 549 (Colo. 1960), *cert. denied*, 364 U.S. 820 (1960). *See* Colo. Const. art. XXV; §§ 40-3-101, 40-3-102, 40-3-111, 40-6-111, C.R.S.

⁵ §§ 40-3-101(1) and (2), 40-3-102, C.R.S. *See* §§ 40-3-111, and 40-6-111, C.R.S.

⁶ The Commission adopted the required Rules in Proceeding No. 24R-0168EG.

⁷ § 40-3-102.5(2)(b), C.R.S.,

file an application to establish a GPIM that complies with Rule 4607(a)(I) to (IV), 4 CCR 723-4. Rule 4607(a)(I)-(IV) requires a utility to include a GPIM benchmark for commodity gas purchases; identify the commodity gas volumes included in the GPIM; include a benchmark for upstream supply costs; and establish a methodology for calculating the risk sharing amount to be borne or retained by the Company.⁸

9. When exercising any power granted to it, the Commission must give the public interest first and paramount consideration.⁹

10. The proponent of an order, *i.e.*, someone seeking to change the status quo, bears the burden of proof to establish that the adjudicator should grant the party's requested relief.¹⁰ Parties must meet their respective burdens of proof by a preponderance of the evidence, which requires the fact finder to determine whether the existence of a contested fact is more probable than its non-existence.¹¹ The preponderance of the evidence standard requires substantial evidence, which is relevant evidence that a reasonable person's mind might accept as adequate to support a conclusion.¹² A party has met this burden when the evidence, on the whole, tips in favor of that party.¹³

11. The Commission may decide uncontested matters without a hearing when a hearing is not required or requested; the application is accompanied by a sworn statement verifying

⁸ Rule 4607(a)(I) to (IV), 4 CCR 723-4.

⁹ *Pub. Serv. Co. of Colo.*, 350 P.2d at 549.

¹⁰ See § 24-4-105(7), C.R.S., Rule 1500 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1.

¹¹ *Swain v. Colo. Dep't of Revenue*, 717 P.2d 507, 508 (Colo. App. 1985). See also §§ 24-4-105(7) and 13-25-127(1) C.R.S.

¹² *City of Boulder v. Pub. Utilis. Comm'n.*, 996 P.2d 1270, 1278 (Colo. 2000), quoting *CF&I Steel, L.P.*, 949 P.2d at 585.

¹³ *Schocke v. Dep't of Revenue*, 719 P.2d 361, 363 (Colo. App. 1986).

sufficient facts; and the record includes sufficient facts and evidence to make a determination on the relief the party seeks.¹⁴

B. Application

12. Based on the foregoing authorities and the Application, the ALJ finds that the Commission has jurisdiction and authority to decide this matter.

13. The ALJ acknowledges Staff's Withdrawal from this Proceeding. Staff is no longer a party to this Proceeding.

14. Given that Staff withdrew its Intervention, and no other interested person intervened in this matter, the Application is uncontested. Because the Application is uncontested; a hearing is not required or requested; the Application is accompanied by a sworn statement verifying sufficient facts; and the record includes sufficient facts and evidence to make a determination on the relief sought, the ALJ will decide this matter without a hearing based on the record.¹⁵

15. Atmos filed its Application as required by Rule 4607(a), 4 CCR 723-4. Atmos explains that the GPIM will be calculated for its North GCA rate area as that is its only GCA rate area with more than 50,000 customers.¹⁶

16. Atmos proposes to establish a GPIM benchmark based on a dollar per dekatherm ("\$/Dth") cost that will be calculated using the normal volumes from Atmos's most recent Gas Purchase Plan, with an assumed split between monthly baseload and daily priced supplies based on the applicable season, multiplied by the applicable baseload and incremental daily gas index

¹⁴ See § 40-6-109(5), C.R.S., and Rule 1403, of the Commission's Rules of Practice and Procedure, 4 CCR 723-1.

¹⁵ See § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1.

¹⁶ Application at p. 3.

prices in its then-current gas supply arrangements. Atmos would then compare the benchmark \$/Dth cost to the actual \$/Dth cost for its gas purchases for each month.¹⁷

17. Atmos' proposed GPIM will include all gas commodity volumes and costs except for: (a) any costs associated with emergency procurements; (b) storage injections and withdrawals; and (c) financial hedging.¹⁸ Atmos will also exclude from the GPIM calculations market disruptions that are outside of its control, including force majeure.¹⁹

18. Atmos proposes that its GPIM include a symmetrical risk sharing mechanism with the deadband and cap set forth in Rules 4607(b)(III)(A) and 4607(b)(III)(C), respectively.²⁰

19. Being fully advised in this matter and consistent with the above discussion and findings, the ALJ finds that the proposed GPIM meets applicable requirements; that the Applicant met its burden of proof; and that approving the Application is consistent with the public interest.

20. In accordance with § 40-6-109, C.R.S., the ALJ transmits to the Commission the record in this Proceeding, along with this Decision, and recommends that the Commission enter the following order

IV. ORDER

A. The Commission Orders That:

1. Colorado Public Utilities Commission Trial Staff's ("Staff") September 5, 2025 Notice of Withdrawal of Intervention as of Right by Trial Staff of the Commission acknowledged. Staff is not a party to this Proceeding.

2. Atmos Energy Corporation's ("Atmos") June 30, 2025 Verified Application for approval of its initial Gas Performance Incentive Mechanism is granted.

¹⁷ *Id.* at pp. 2-3.

¹⁸ Hearing Exhibit 101 at p. 2.

¹⁹ *Id.*

²⁰ Application at p. 3; Hearing Exhibit 101 at p. 3.

3. No more than five business days after this Recommended Decision becomes a Commission Decision, if that is the case, Atmos must file a compliance advice letter and tariff sheets in substantially the same form as the Tariff Sheets in Hearing Exhibit 101, Attachment KRO-1, on not less than two business days' notice. The compliance filings must be made in a new advice letter proceeding and comply with all applicable rules. In calculating the proposed effective date, the date the Commission receives the filing is not included in the notice period and the entire notice period must expire before the effective date. The advice letter and tariff sheets must comply in all substantive respects to this Decision to be filed as a compliance filing on shortened notice.

4. Proceeding No. 25A-0282G is closed.

5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E White".

Rebecca E White,
Director