

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0125FG

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 LASALLE, COUNTY OF WELD, COLORADO.

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

Mailed Date: April 19, 2023
Adopted Date: April 19, 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 March 15, 2023, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the Town of LaSalle, Weld County, Colorado (LaSalle or Town).

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

3. The Commission provided notice of this application on March 17, 2023, to all interested persons, firms, and corporations. The Company provided notice of the Application in *The Greeley Tribune* on December 24 and 31, 2022 and January 7, 2023. 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 generation, transmission, purchase, distribution, and sale of electric 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 LaSalle. Pursuant to Ordinance No. 1-2023, adopted on February 14, 2023, the Town granted Atmos a 25-year franchise to provide natural gas service within LaSalle. This franchise took effect on August 26, 2022, and will expire on August 25, 2047.

6. On July 22, 1997, LaSalle passed and adopted Ordinance No. 4-1997 granting Atmos's predecessor, Greeley Gas Company, a franchise to provide natural gas service within LaSalle. On September 9, 2010, the Commission, in Decision No. C10-0984, Proceeding No. 10A-549FG, granted Atmos a CPCN to exercise franchise rights as described in Ordinance No. 4-1997. The delay in the application for the CPCN was due to an inadvertant oversight.

7. Only July 24, 1972 LaSalle passed and adopted Ordinance No. 7-1972 granting Atmos's predecessor, Greeley Gas Company, a franchise to provide natural gas service within LaSalle. On February 16, 1973, the Commission, in Decision No. 82358 granted Greeley Gas Company a CPCN to exercise franchise rights as descibed in Ordinance No. 7-1972.

8. Only August 25, 1947 LaSalle passed and adopted Ordinance No. 1, Series of 1947 granting Atmos's predecessor, Greeley Gas Company, a franchise to provide natural gas service within LaSalle. On April 14, 1948, the Commission, in Decision No. 30279 granted

Greeley Gas Company a CPCN to exercise franchise rights as described in Ordinance No. 1, Series of 1947.

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 granted and in recognition of Atmos's right to use the Town streets, the Town requires Atmos to collect and remit to the Town, a franchise fee of five percent derived from the sale, distribution, or transportation of electricity for all customers, the Town is exempt from the franchise fee.

12. No other utility is authorized to provide electric 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 or its predecessors have provided electric service in the Town since 1947, subject to relevant franchise agreements. Because the areas encompassed by the above-referenced franchises are currently served by Atmos, 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 Rules Regulating Gas Utilities.

15. Atmos does not have Colorado-specific audited financial statements as described in Rule 4002(b)(IX), 4 CCR 723-4. Atmos requests a waiver of this Rule, stating the cost to obtain such audited financial statements would constitute an extreme financial burden to Atmos and ultimately to its customers. The Company also states that it is a financially strong, Fortune 500 company, with a longstanding presence and track-record relative to its Colorado utility operations.

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

17. Atmos's electric service tariffs, currently on file with the Commission, will be used for service under this application.

18. Providing uninterrupted service to the residents of LaSalle 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 on March 15, 2023, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights pursuant to Ordinance No. 1-2023, in the Town of LaSalle 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 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.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 19, 2023.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners