

Decision No. C04-0862

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-347FG

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

**DECISION GRANTING APPLICATION
TO EXERCISE FRANCHISE RIGHTS**

Mailed Date: July 29, 2004
Adopted Date: July 27, 2004

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On July 1, 2004, Atmos Energy Corporation (Atmos or Company) filed an application seeking a Commission order granting it a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the Town of Windsor, Colorado (Windsor or Town).

2. The Commission noticed this application to all interested persons, firms, and corporations on July 6, 2004. No petition to intervene or notice of intervention has been filed, and 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 24, *Commission's Rules of Practice and Procedure*, 4 *Code of Colorado Regulations* (CCR) 723-1.

3. Atmos is a Virginia and Texas corporation operating as a public utility subject to the jurisdiction of the Commission and is engaged *inter alia*, in the purchase, distribution, transportation, and sale of natural gas in various areas in the State of Colorado. On

December 22, 1993, Atmos was authorized to merge, and did merge, with Greeley Gas Company (Greeley Gas) by Decision No. C93-1608. Atmos now operates Greeley Gas as a division of Atmos. All operations to be conducted by Atmos under the CPCN sought in the instant application shall be under the name of Atmos Energy Corporation.

4. Atmos requests that the Commission issue an order granting to it a CPCN to exercise franchise rights in Windsor, in accordance with the franchise agreement approved by the Board of Trustees for the Town on March 22, 2004 as Ordinance No. 2004-1166.

5. The term of the franchise is for a period of 20 years, beginning April 1, 2004 and expiring March 31, 2024. The Company shall collect and remit to the Town a franchise fee equal to 3 percent of the revenues received by the Company from the sale of gas to its customers within the Town, excluding the amount for gas service furnished to the Town.

6. Other than Public Service Company of Colorado (Public Service), there are no other public utilities or other entities of like character providing similar service in or near the area involved in this Application. Public Service holds a CPCN to provide natural gas utility service in close proximity to the area for which Atmos seeks a certificate in this proceeding. Public Service also holds a franchise from Windsor (adopted by the Board of Trustees of Windsor on September 9, 1996 in Ordinance No. 96-944 for a terms of 25 years, expiring October 26, 2021) to provide natural gas utility service within Windsor pursuant to a CPCN issued by this Commission (Decision No. C99-210 in Docket No. 98A-587F).

7. Atmos notes that the area for which a CPCN is requested by this Application is included within a broader service area that was certificated to Atmos by the Commission in Decision No. C02-129 in Docket No. 01A-577G. Atmos sought such a CPCN in response to Public Service's filing in Docket No. 99A-029G for issuance of a CPCN that covered a large

portion of the Colorado Front Range, including that area which Atmos believed should have been certificated to it. Atmos further notes that Public Service was an intervenor in Docket No. 01A-577G and agreed to the issuance of the CPCN that was ultimately issued to Atmos in that proceeding. (*See* Appendix A for a map of the certificated territories.) Atmos' certificated area in Weld County is described in ¶ I.B.4 in Decision No. C02-129 and is attached as Appendix B with the line of demarcation between Atmos and Public Service in Windsor highlighted in bold.

8. Atmos has been providing natural gas service to residents of Windsor pursuant to a franchise agreement that recently expired. Because the area encompassed by the Windsor franchise has previously been certificated to Atmos, the requirement to provide a feasibility study as set forth in Rule 55(c)(5), 4 CCR 723-1, can be satisfied by the alternative provision using Atmos' financial statements.

9. Atmos has the financial ability and is qualified and competent to conduct the utility operations sought under its application.

10. Atmos' gas tariff, currently on file with the Commission, which may be amended from time to time, will be applicable to service provided pursuant to the grant of this application.

11. 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 by Atmos Energy Corporation for a Certificate of Public Convenience and Necessity to exercise franchise rights in the Town of Windsor, Colorado is deemed complete and granted.

2. A Certificate of Public Convenience and Necessity is granted to Atmos Energy Corporation to extend and operate its natural gas distribution system in the Town of Windsor and its environs as described herein, and this Order shall be deemed to be, and shall be, a Certificate of Public Convenience and Necessity.

3. This Certificate of Public Convenience and Necessity shall cease to be in effect concurrent with the expiration date of the current franchise agreement with the Town of Windsor on March 31, 2024.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 27, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners