

Decision No. C24-0875

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0632G

IN THE MATTER OF THE APPLICATION OF ATMOS ENERGY CORPORATION FOR APPROVAL OF ITS 2024-2028 CLEAN HEAT PLAN.

**COMMISSION DECISION ADDRESSING EXCEPTIONS
TO COMMISSION DECISION NO. R24-0740**

Issued Date: November 26, 2024
Adopted Date: November 20, 2024

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I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission grants the exceptions to Recommended Decision No. R24-0740 (“Recommended Decision”) filed on November 4, 2024 by Trial Staff of the Public Utilities Commission (“Staff”).

B. Background

2. On December 29, 2023, Atmos Energy Corporation (“Atmos Energy” or “the Company”) filed with the Commission its Verified Application (“Application”) seeking approval of its initial Clean Heat Plan (“CHP”). With the Application, Atmos Energy filed testimony and related exhibits. This filing commenced Proceeding No. 23A-0632G.

3. On October 14, 2024, through the Recommended Decision, Administrative Law Judge (“ALJ”) Aviv Segev approved the Settlement Agreement in Atmos Energy’s CHP Application and granted Atmos Energy’s CHP Application, as modified by the Settlement Agreement.

4. On November 4, 2024, Staff filed exceptions to the Recommended Decision.

5. On November 18, 2024, Atmos Energy filed a response to Staff’s exceptions.

6. Consistent with the discussion below, this Decision grants Staff’s exceptions and requires Atmos to conduct a beneficial electrification (“BE”) analysis and include that analysis as part of the Company’s next CHP filing.

C. Discussion

1. Settlement Agreement and Recommended Decision

7. As explained in the Recommended Decision, Atmos Energy’s CHP Application as modified by the Settlement Agreement establishes an initial CHP term through December 31,

2027. The approved CHP includes: (1) increased energy efficiency measures; (2) a manufactured homes pilot; (3) establishes that total expenditures over the plan period will not exceed \$11,907,500; (4) establishes that at least 25 percent of overall residential CHP expenditures shall be targeted to residential income-qualified (“IQ”) customers; and (5) confirms that CHP expenditures during the plan period are within the statutory cost cap.¹ Atmos Energy’s CHP portfolio will not include BE, recovered methane, thermal energy networks, or its originally proposed gas heat pump pilot.

8. The Settlement Agreement states that Atmos shall recover CHP costs through a CHP rider each applicable year regardless of the Company’s actual CHP expenditures in that year. Any excess collections recorded in a regulatory liability for future use on CHP resources. For this initial CHP, expenditures are expected to increase through 2027 as energy efficiency expenditures ramp up.² The CHP Rider proposed by the Company shall be approved with the CHP costs allocated between customer classes as recommended by Atmos Energy—but recovered through volumetric charges only—as recommended by Staff.³ The Company will be allowed to recover one year of lost revenues for new energy efficiency measures installed under the CHP Portfolio, consistent with the stipulation in the Company’s last Demand-Side Management Strategic Issues proceeding.⁴

9. Atmos Energy’s next CHP and Demand-Side Management Strategic Issues filings shall be filed together by May 1, 2027.⁵

10. The Recommended Decision approves the Settlement without modification.

¹ Settlement Agreement at 3-4.

² Settlement Agreement at 5.

³ Settlement Agreement at 5.

⁴ Hearing Exhibit 204 at 6-7. *citing* Proceeding No. 23A-0216G.

⁵ Settlement Agreement at 5.

2. Staff's Exceptions to the Recommended Decision

11. In its exceptions, Staff requested the Commission modify the Recommended Decision to address the recommendation made by Staff in its Settlement Agreement Testimony.⁶ In its Settlement Testimony, Staff requested that the Commission require Atmos Energy to conduct a BE analysis and include that analysis as part of the Company's next CHP filing. Staff requests that such analysis should not be limited to whole-home electrification, but should consider incremental BE measures, such as replacements of furnaces, air-conditioning units, and water heaters.⁷

12. As written, the Recommended Decision does not address Staff's request.

13. Staff requests the Commission consider and modify the Decision by ordering the Company to conduct a BE analysis in the Company's next CHP. Staff additionally has no other issue with the Settlement Agreement, supports the ALJ's approval of the Settlement Agreement, requests the Commission otherwise approve the Settlement Agreement without additional modification, and requests an expeditious resolution to this matter to avoid delaying or impeding Atmos Energy's implementation of its CHP activities.

3. Atmos Energy's Response to Staff's Exceptions

14. On November 18, 2024, Atmos filed a response to Staff's exceptions arguing that the Commission should deny Staff's request. It argues the Commission should decline to impose any additional requirements for the Company's next CHP application at this time, and provides three reasons why modifying Decision No. R24-0740 as requested by Staff is not necessary.

⁶ See Hearing Exhibit 203 (Haglund Settlement), p. 18.

⁷ *Id.* at 18:11-13.

15. First, Rule 4731 of the Commission's Rules Regulating Gas Utilities, 4 *Code of Colorado Regulations* 723-4 provides the requirements for CHP applications and Atmos Energy will comply with those rules in its next CHP application. Second, if the Commission believes additional information should be included in the Company's next CHP proceeding after it has reviewed that future filing, it can require Supplemental Direct Testimony as it did in this Proceeding. Third, if Staff or any other intervenor is unsatisfied with the information included with the Company's next CHP application, or otherwise desires to offer additional information for the record, they are free to provide their own analysis in answer testimony.

D. Findings and Conclusions

16. We are persuaded by Staff's recommendation that Atmos Energy conduct a BE analysis and include that analysis as part of the Company's next CHP filing. In its Settlement Testimony, Staff states that such analysis should not be limited to whole-home electrification, but should consider incremental BE measures, such as replacements of furnaces, air-conditioning units, and water heaters.⁸ Staff believes that BE has an important role to play in reducing emissions in the gas sector and also cites the language in the Commission's decision approving Public Service Company of Colorado's CHP that "any portfolio approved by the Commission should prioritize BE and DSM as the vast majority of this clean heat plan" as additional merit to BE's potential.⁹

17. In its Settlement Testimony, Staff also explains why it joined a Settlement Agreement that does not include any BE. First, Staff assessed that the evidence in this Proceeding did not establish on this record that BE is a cost-effective Clean Heat resource on par with incremental energy efficiency. Staff states that Public Comments provided by Western Resource

⁸ Hearing Exhibit 203 at 18.

⁹ Hearing Exhibit 203 at 19 *citing* Decision No. C24-0397 ¶ 53 in Proceeding No. 23A-0392EG.

Advocates (“WRA”) in this Proceeding argue that the Company’s BE analysis is deficient. Staff sees merit in a number of the points WRA raises and concludes that in order to support BE in Atmos Energy’s CHP, positive evidence of BE’s cost-effectiveness relative to efficiency is needed. Second, Staff believes that even if the Commission were to order Atmos to implement a BE program in this Proceeding, Staff believes such a program would likely be unsuccessful due to Atmos Energy’s categorical opposition to BE.¹⁰

18. The Commission finds that given the general understanding of cost-effective BE efforts for other utilities in Colorado and other gas-only utilities nationally, Staff’s request to analyze the conditions under which whole-home or incremental BE would be a cost-effective resource in Atmos Energy’s CHP portfolios is warranted. The Commission directs Atmos to include incremental BE in its analysis provided in its next CHP application, expected by May 1, 2027.

19. The Commission also recognizes that there are additional Clean Heat resources that the Company could assess. Thus, the Commission directs Atmos Energy to include such resources as networked geothermal and other approved Clean Heat resources in its analysis. Atmos Energy may also consider in its analysis business model reforms, including but not limited to performance based regulation¹¹ or an inclusive utility investment program¹² that could improve the cost effectiveness of Clean Heat resources.

¹⁰ Hearing Exhibit 203 at 19-21.

¹¹ <https://www.nrel.gov/docs/fy17osti/68512.pdf>

¹² <https://www.epa.gov/statelocalenergy/inclusive-utility-investments-tariffed-bill-programs>

20. Finally, the Commission sees merit in Staff's concern that Atmos Energy's categorical opposition to BE could impact the results of the analysis. Thus, the Commission directs

Atmos Energy to:

- a. Use publicly available, third-party, neutral data for all inputs and assumptions related to the costs, efficiencies, and market demand for BE.
- b. Cite all data used as inputs, assumptions, or otherwise used to inform the analysis.
- c. Provide executable spreadsheet(s) for any model used to complete the analysis so that intervenors and the Commission may evaluate and iterate on the Company's assumptions.
- d. Lead a stakeholder technical working group that is open to at least the intervenors to this Proceeding and any third-party organization that provides neutral technical assistance and expertise regarding the BE analysis that may be interested in participating. The Commission also anticipates that a representative from the Commission will participate in the technical working group. To facilitate the inclusion of a member of the Commission Staff in the working group, Atmos shall keep the Commission informed of progress and scheduled meetings.

21. The Commission does not find Atmos Energy's arguments persuasive. First, the Company's compliance with Rule 4731 and conducting a BE analysis are mutually exclusive—while the utility must comply with the Commission's rules, the Commission may also order presentation of additional information as appropriate. Second, the Commission finds that it is more efficient to order the analysis now than to wait for Supplemental Direct Testimony. Third, the Commission appreciates Atmos Energy's observation that Staff or another intervenor could conduct their own analysis and anticipates the stakeholder technical working group will minimize the need for multiple analyses.

II. ORDER

A. The Commission Orders That:

1. The Exceptions to Decision No. R24-0740 filed on November 4, 2024, by Trial Staff of the Public Utilities Commission are granted, consistent with the discussion above.

2. Atmos Energy Corporation is directed to include the analysis proposed by Staff with the additional parameters discussed in this Decision. Atmos shall present the results of the analysis, consistent with the discussion above, in its next clean heat plan filing.

3. This Decision is effective immediately on its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 20, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners