

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

IN THE MATTER OF ATMOS ENERGY CORPORATION'S APPLICATION TO OPEN DEMAND-SIDE MANAGEMENT STRATEGIC ISSUES PROCEEDING.

Proceeding No. 23A-0216G

**UNANIMOUS NON-COMPREHENSIVE
STIPULATION AND SETTLEMENT AGREEMENT**

This Unanimous Non-Comprehensive Stipulation and Settlement Agreement ("Stipulation") is entered into by and between Atmos Energy Corporation ("Atmos Energy" or the "Company"), Trial Staff of the Colorado Public Utilities Commission ("Staff"), the Office of Utility Consumer Advocate ("UCA"), Southwest Energy Efficiency Project ("SWEEP"), and Energy Outreach Colorado ("EOC") (each a "Settling Party," and collectively the "Settling Parties"). The Settling Parties submit that this Stipulation is a just and reasonable resolution of all issues that were raised in this Demand-Side Management ("DSM") Strategic Issues ("SI") proceeding with one exception: specifically, whether the Company should be required to include support for beneficial electrification ("BE") as part of its next DSM plan. Regarding that single remaining contested issue, this Stipulation includes the Settling Parties' agreement regarding a procedural path forward to resolve the dispute over the role of BE in the Company's next DSM plan without a hearing.

Background

1. On May 1, 2023, Atmos Energy filed an application to open a DSM SI proceeding in accordance with Decision No. C23-0116 and § 40-3.2-103(1), C.R.S.
2. On May 15, 2023, the UCA filed its notice of intervention of right, request for hearing, and entry of appearances.

3. On May 25, 2023, Staff filed its notice of intervention as of right, entry of appearance, notice pursuant to Rule 1007(a) and Rule 1401, and request for hearing.

4. On June 1, 2023, SWEEP filed its motion to intervene and entry of appearance.

5. On June 1, 2023, the Colorado Energy Office filed its notice of intervention by right, which was subsequently withdrawn on July 12, 2023.

6. On June 2, 2023, EOC filed its unopposed motion to intervene and entry of appearance.

7. On June 30, 2023, Atmos Energy filed the direct testimony and attachment of Ken Fogle (Hearing Exhibit 100).

8. On July 27, 2023, the ALJ issued Decision No. R23-0476-I granting permissive intervention, setting a procedural schedule, and scheduling an evidentiary hearing. As recognized in that decision, Atmos Energy, Staff, UCA, EOC, and SWEEP are the only parties to this proceeding.

9. On August 18, 2023, Staff filed the answer testimony and attachments of Seina Soufiani, PE (Hearing Exhibit 200) and the answer testimony and attachment of Aaron Moseley, PE (Hearing Exhibit 201); UCA filed the answer testimony and attachments of Chris Neil (Hearing Exhibit 300); and SWEEP filed the answer testimony and attachments of Justin Brant (Hearing Exhibit 500).

10. On September 22, 2023, Atmos Energy filed the rebuttal testimony of Ken Fogle (Hearing Exhibit 101) and the rebuttal testimony of Kathleen R. Ocanas (Hearing Exhibit 102); UCA filed the cross-answer testimony of Chris Neil (Hearing Exhibit 301); EOC filed the cross-answer testimony and attachment of Andrew Bennett (Hearing Exhibit 400); and SWEEP filed the cross-answer testimony of Justin Brant (Hearing Exhibit 501).

11. After filing rebuttal and cross-answer testimony, the Settling Parties engaged in discussions to see if the contested issues in this proceeding could be resolved through a settlement agreement. Those discussions were productive and led to the terms of this Stipulation described below.

Settlement Terms and Conditions

12. To resolve the issues in this DSM SI proceeding, the Settling Parties agree that the Company's application should be approved as modified in rebuttal testimony and subject to the following terms:

a. DSM Savings Goal: Atmos Energy's next DSM plan will be designed to reach an annual savings goal of approximately 64,051 Dekatherms per year. The Company will propose the specific annual savings goals for 2024-2027 in its next DSM plan, with a ramp up as discussed in the Company's rebuttal testimony.

b. DSM Budget: Atmos Energy's next DSM plan will be designed to reach annual expenditures on DSM of approximately \$2 million. The Company will propose the specific annual budget for 2024-2027 in its next DSM plan, with a ramp up as discussed in the Company's rebuttal testimony.

c. Calculation of Benefits for DSM Bonus: The benefits for any DSM bonus for Atmos Energy will be calculated pursuant to Rule 4760(f) and in accordance with Rule 4753(o), including the Social Cost of Emissions ("SCE") and Non-Energy Benefit ("NEB") adders.

d. DSM Bonus Structure: Atmos Energy will be allowed to recover 6% of net benefits for meeting 80% of the annual DSM savings goal. The bonus will increase 0.2% of net benefits for each 1% of additional goal attainment up to 100% of goal. From 100% to 125%, the bonus will increase at 0.4% of net benefits for each 1% of additional goal attainment.

e. Income Qualified (“IQ”) Bonus: The Company will not receive a separate bonus for IQ expenditures. For purposes of calculating a DSM bonus for Atmos Energy, the costs and benefits associated with the Company’s IQ DSM programs may be excluded from the calculation of the net economic benefits for the entire DSM portfolio pursuant to Rule 4760(e).

f. Adjustment for Lost Revenues (“ALR”): If BE is not required as part of Atmos Energy’s next DSM plan, the Company will be allowed to recover ALR for one year. Atmos Energy reserves the right to apply for revenue per customer decoupling under § 40-3.2-103(5)(b), C.R.S., if BE is required to be included as part of the Company’s next DSM plan or is required for the Company in the future. If BE is required and the Company’s application for decoupling is approved, there will be no change to the calculation of benefits for any DSM bonus for Atmos Energy.

g. Methane Leakage Rate: Atmos Energy will use a methane leakage rate of 2.2% for its DSM plan.

h. NEB Multipliers: Atmos Energy will use NEB adders of 1.1 for market programs and 1.5 for IQ programs in its DSM plan. The NEBs will not be applied to SCE benefits, consistent with the Company’s rebuttal testimony.

i. Discount Rates: Atmos Energy will present portfolios using a discount rate of 2.5% and its weighted average cost of capital (“WACC”) in future DSM filings, consistent with the Commission’s decision in Public Service Company of Colorado’s DSM SI proceeding.¹ The discount rate used to calculate any DSM bonus for Atmos Energy will be the Company’s WACC.

j. DSM Program Offerings: For new residential construction, incentives will only be available for properties using gas as back-up fuel. Any incentives offered by Atmos

¹ Proceeding No. 22A-0309EG.

Energy for new residential construction will go toward the cost of gas appliances or building shell measures only. No other cost-effective measures will be eliminated from the Company's next DSM plan.

k. Beneficial Electrification: BE is the only unresolved issue remaining as a result of this Stipulation. Whether Atmos Energy must include support for BE as part of its next DSM plan should be resolved by the ALJ based on the existing record and without a hearing. Interested parties may file a brief regarding whether Atmos Energy must include BE as part of its next DSM plan pursuant to the schedule approved by the ALJ. Staff, UCA, and EOC plan to take no position on this issue and will not file briefs.

13. As part of this Stipulation, the parties stipulate to the admission of all pre-filed testimony and attachments in this proceeding.

The Public Interest

14. The Settling Parties agree that this Stipulation is in the public interest. Unless otherwise ordered, the Settling Parties may file testimony in support of the Stipulation and will be available to answer questions from the ALJ at the hearing if a hearing is held. The Settling Parties agree to support the Stipulation as being in the public interest in proceedings before the Commission and to advocate in good faith that the Commission approve the Stipulation in its entirety.

General Terms and Conditions

15. The Settling Parties agree that this Stipulation represents a compromise of their positions and has been negotiated as a comprehensive settlement. As such, the Settling Parties acknowledge that their support and advocacy for the Stipulation is based upon the Stipulation as a whole and not based upon its individual components viewed in isolation.

16. The Settling Parties agree that all negotiations relating to this Stipulation are subject to CRE 408, and that no party will be bound by any position asserted in the negotiations, except to the extent expressly stated in this Stipulation.

17. The Settling Parties agree that except as otherwise expressly noted in this Stipulation: (a) the execution of this Stipulation will not be deemed to constitute an acknowledgment of any Settling Party of the validity or invalidity of any particular method, theory or principle of ratemaking or regulation, and no Settling Party will be deemed to have agreed that any principle, method or theory of regulation employed in arriving at this Stipulation is appropriate for resolving any issue in any other proceeding; (b) the execution of the Stipulation will not constitute the basis of estoppel or waiver in future proceedings by any Settling Party; and (c) no Settling Party will be deemed to be bound by any position asserted by any other Settling Party.

18. The Settling Parties acknowledge that their support and advocacy of the Stipulation may be compromised by material alterations thereto. If the Commission rejects or materially alters the Stipulation, the Settling Parties agree that within seven days of such Commission decision any Settling Party may provide notice to the other Settling Parties of its objection to the Stipulation as modified. Upon such objection, the Settling Parties will no longer be bound by its terms and will not be deemed to have waived any of their respective procedural or due process rights under Colorado law. If a Settling Party objects to the Stipulation as modified, it may withdraw from the Stipulation.

19. This Stipulation, if adopted and approved by the Commission, resolves all disputed matters related to this proceeding between the Settling Parties except as explicitly noted otherwise. Any disputed matters will be deemed resolved to the extent that the Stipulation is not compromised by material alterations.

20. Except as otherwise expressly provided in this Stipulation, the issuance of a decision approving this Stipulation will not be deemed to work as an estoppel upon the Settling Parties or the Commission, or otherwise establish, or create any limitation on or precedent of the Commission, in future proceedings.

21. This Stipulation will not become effective and will be given no force and effect until the issuance of a final written Commission decision that accepts and approves this Stipulation.

22. This Stipulation may be executed in one or more counterparts and each counterpart will have the same force and effect as an original document and as if all the Settling Parties had signed the same document. Any signature page of this Stipulation may be detached from any counterpart of this Stipulation without impairing the legal effect of any signatures thereon and may be attached to another counterpart of the Stipulation identical in form hereto but having attached to it one or more signature page(s). The Settling Parties agree that “pdf” signature pages exchanged by e-mail and electronic signatures will satisfy the requirements for execution.

[Signature Page Follows]

Dated this 2nd day of November 2023.

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