

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-484G

IN THE MATTER OF THE JOINT APPLICATION OF ATMOS ENERGY CORPORATION AND COMFURT GAS, INC. FOR THE APPROVAL OF THE TRANSFER OF CERTAIN FACILITIES AND PROPERTIES FROM COMFURT GAS, INC. TO ATMOS ENERGY CORPORATION AND AUTHORIZING THE TRANSFER OF ALL CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY ISSUED TO COMFURT GAS, INC. FOR SAID NATURAL GAS FACILITIES AND PROPERTIES ON AN EXPEDITED BASIS PURSUANT TO THE COMMISSION'S MODIFIED PROCEDURES.

**ORDER ASSIGNING MATTER TO
ADMINISTRATIVE LAW JUDGE**

Mailed Date: December 4, 2003
Adopted Date: November 26, 2003

I. BY THE COMMISSION

A. Statement

1. On November 4, 2003, Atmos Energy Corporation and ComFurT Gas, Inc. (Applicants), filed for approval to transfer certain facilities, pursuant to §§ 40-5-101 and 105, C.R.S., as well as Rule 55 of the Rules of Practice and Procedure. Applicants filed direct testimony in support of the application, and request expedited treatment. On November 24, 2003, Staff of the Commission filed a notice of intervention and request for hearing.

2. We now determine that the application should be deemed complete, and assign this matter to an Administrative Law Judge (ALJ) for hearing. In addition, we provide guidance regarding the scope of the issues to be addressed at hearing.

3. As discussed in detail in Decision No. C99-1052, Docket No. 99A-377EG, and Decision No. C99-1147, Docket No. 99A-407T, the Applicants must show that the transaction

results in producer and consumer welfare maximization. More precisely, the applicants must show that producer and consumer welfare gains associated with the asset sale will provide a result that is not contrary to the public interest. For example, welfare gains may include: lower consumer rates, synergies, economies of scale or scope, cost savings, more favorable access to capital, more rapid deployment of technology, accelerated competitive entry into other markets, and increased productive efficiencies.

4. If parties want the Commission to condition the transaction, or reject it outright, they must produce evidence that the asset sale will not result in welfare maximization, but cause consumer and producer welfare losses. Such losses could include: reduction in output, negative synergies, increased costs, increased capital costs, or delayed technology deployment.

5. We assign the matter to an ALJ for expedited review, and direct the ALJ to maintain the scope of the proceeding consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. We find that the application should automatically be deemed complete on December 2, 2003, in accordance with 4 *Code of Colorado Regulations* 723-1, Rule 70.

2. We assign the matter to an Administrative Law Judge, consistent with the above discussion.

3. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 26, 2003.**

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners