

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

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING UNOPPOSED MOTION,
MODIFYING PROCEDURAL SCHEDULE,
ESTABLISHING FILING REQUIREMENT,
AND WAIVING RESPONSE TIME**

Mailed Date: January 15, 2004

I. STATEMENT

1. On November 4, 2003, Atmos Energy Corporation and ComFurT Gas, Inc. (Applicants), filed their Verified Joint Application (Application). The Application commenced this proceeding.

2. On November 5, 2003, the Commission gave public notice of the Application. See Notice of Application Filed, dated November 3, 2003. On November 24, 2003, Staff of the Commission (Staff) intervened of right and requested a hearing in this matter. Staff is the only intervenor in this matter.

3. On December 18, 2003, pursuant to Decision No. R03-1384-I, the Administrative Law Judge (ALJ) held a prehearing conference in this matter. By Decision No. R03-0009-I, the undersigned ALJ established, *inter alia*, a procedural schedule.

4. On January 14, 2004, Staff filed an Unopposed Motion to Modify Procedural Schedule and to Waive Response Time (Motion). In that Motion Staff states that Applicants and Staff have reached an agreement in principle to settle this matter and need additional time to reduce the final agreement to writing. To obtain the necessary additional time, Staff seeks a modification of the procedural schedule. Motion at ¶ 5. Staff also requests waiver of response time because no party opposes the granting of the Motion. *Id.* at ¶ 7.

5. The Motion requests time for the parties to reach final written settlement in this proceeding. The Commission has a policy of encouraging settlement. Granting the Motion advances that policy. The Motion states good cause. In addition, as no party opposes the Motion, granting the Motion will not prejudice any party. Finally, granting the Motion will not delay the hearing. For these reasons, the Motion will be granted, with the following condition: If a settlement is finalized, the parties shall file the settlement no later than January 28, 2004.

6. The procedural schedule established by Decision No. R03-0009-I is modified as follows: (a) on or before **January 21, 2004**, Staff shall file its answer testimony and exhibits; (b) on or before **January 28, 2004**, Staff shall file corrections to its answer testimony and exhibits; (c) on or before **January 28, 2004**, parties shall file any settlement reached; and (d) Applicants may present their rebuttal testimony and exhibits, if any, orally at hearing.¹

¹ The requirement that Applicants file corrections to their rebuttal testimony and the provisions of Decision No. R03-0009-I concerning discovery addressed to prefiled rebuttal testimony are vacated.

7. Absent further Order, the remainder of the procedural schedule established in Decision No. R03-0009-I remains in effect: (a) on or before **January 30, 2004, at noon**, each party shall file its prehearing motions; (b) a final prehearing conference will be held on **February 2, 2004**; (c) the hearing will be held on **February 3 and 4, 2004**; and (d) on or before **February 19, 2004**, parties shall file their post-hearing statements of position. Absent further Order, no response to a statement of position will be permitted.

8. Except as modified by this Order, the requirements, filings, and procedures ordered in Decision No. R04-0009-I will remain in effect.

9. As no party opposes the Motion, response time to the Motion will be waived.

II. ORDER

A. It Is Ordered That:

1. The Unopposed Motion to Modify Procedural Schedule is granted.
2. The procedural schedule established in Decision No. R04-0009-I is modified as set out above in this Order.
3. Except as modified by this Order, the requirements, filings, and procedures ordered in Decision No. R04-0009-I remain in effect.
4. The Unopposed Motion to Waive Response Time is granted.
5. Response time to the Unopposed Motion to Modify Procedural Schedule is waived.
6. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge