

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0153G

IN THE MATTER OF THE APPLICATION OF ATMOS ENERGY CORPORATION FOR AN
ORDER GRANTING IT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO IMPLEMENT THE GREELEY BUILDING PROJECT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
DENYING APPLICATION**

Mailed Date: July 25, 2014

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I. STATEMENT, FINDINGS OF FACT, DISCUSSION AND CONCLUSIONS**A. Procedural History.**

1. On February 19, 2014, Atmos Energy Corporation (Atmos or the Company) filed an Application for an Order Granting It a Certificate of Public Convenience and Necessity to Implement the Greeley Building Project (Application). Atmos filed exhibits and testimony with its Application.

2. The Application seeks the Commission to grant a Certificate of Public Convenience and Necessity (CPCN) to construct a new building to house office staff and a service center in Greeley, Colorado (Greeley Building Project or the Project). The Application also seeks the Commission to make a determination of prudence of the estimated costs for the Project, plus or minus 10 percent.

3. In addition, the Application also asks the Commission to waive the requirements of Rule 4002(b)(IX) of the Commission's Rules Regulating Gas Utilities and Pipeline Operators, 4 *Code of Colorado Regulations* (CCR) 723-4, to provide specific audited financial information, and that the Commission shorten the time for interventions to be filed.

4. On February 26, 2014, the Commission granted Applicant's request for a shortened notice period, requiring that all interventions be filed by March 10, 2014. Decision No. C14-0206-I.

5. The Commission gave public Notice of the Application on February 26, 2014. That same day, the Commission gave an Updated Notice of the Application (Updated Notice), which provided notice of the shortened intervention period. The Updated Notice required that

any intervener file its testimony and exhibits within 90 days of the filing of the Application. On March 14, 2014, Decision No. R14-0288-I vacated those deadlines.

6. The Colorado Office of Consumer Counsel (the OCC) timely filed a notice of intervention of right in this proceeding. No other party intervened.

7. On March 12, 2014, by Minute Order, the Commission referred this matter to an Administrative Law Judge (ALJ) for disposition.

8. The ALJ extended the deadline for a Commission decision to issue by 90 days pursuant to § 40-6-109.5(1), C.R.S. Decision No. R14-0288-I. The same Decision scheduled a prehearing conference for March 21, 2014.

9. All parties appeared through counsel at the prehearing conference. At the prehearing conference, the parties agreed to and the ALJ approved a procedural schedule and hearing date on the Application. Decision No. R14-0322-I issued March 24, 2014. The hearing on the Application was scheduled for May 28, 2014. *Id.*

10. As the OCC did not object and finding good cause therefore, the ALJ waived the requirements of Rule 4002(b)(IX), 4 CCR 723-4, for Applicant to provide specific audited financial information for this proceeding. *Id.*

11. Consistent with the procedural schedule, the OCC filed its Answer Testimony on April 22, 2014, and Atmos filed Rebuttal Testimony on May 8, 2014. The parties also timely filed corrected testimony.

12. On May 13, 2014, the OCC filed a “Motion *in Limine* to Exclude New Evidence on Rebuttal and Request for Shortened Response Time” (Motion). The Motion sought a decision striking and excluding from evidence large portions of David D. Hergenreder’s Rebuttal

Testimony, and exhibits thereto. Atmos timely filed a “Response to Motion *in Limine* to Exclude New Evidence on Rebuttal,” objecting to the Motion on May 20, 2014.

13. On May 22, 2014, the ALJ denied the Motion, but held that the OCC would be permitted to present evidence in response to the disputed Rebuttal Testimony and exhibits during the hearing on the Application. Decision No. R14-0551-I.

14. At the date, time, and location designated, May 28, 2014, the ALJ convened the hearing on the Application. Both parties appeared. Atmos was represented by Mr. Thorvald Nelson and Mr. Emanuel Cocian; the OCC was represented by Mr. Greg Bunker.

15. During the course of the hearing, Hearing Exhibits 1 to 7 were admitted into evidence; Confidential Hearing Exhibits 2A, 3A, and 8 were admitted into evidence; and Hearing Exhibits 101A, 102, 103, and 104 were admitted into evidence.¹

16. Ms. Karen Wilkes, Mr. Joe Christian, and Mr. David Hergenreder testified on behalf of Applicant. Mr. Cory Skluzak testified on behalf of the OCC.

17. The OCC timely filed its Post-Hearing Statement of Position (OCC SOP) on June 11, 2014. *See* Decision No. R14-0322-I. Atmos filed its Post-Hearing Statement of Position (Atmos SOP) one day late, on June 12, 2014. The OCC has not objected to this late filing. The ALJ sees no prejudice in accepting the late filing and will do so.

B. Atmos’s Proposal: The Greeley Building Project.

18. The Greeley Building Project consists of the purchase of an approximately 6.57-acre tract of land in Greeley and construction of a single story 12,563 square foot office

¹Attachments to the exhibits are as follows: Hearing Exhibit 2 includes KPW-1 to KPW-7; Hearing Exhibit 3 includes DDH-1 to DDH-23; Hearing Exhibit 4 includes KPW-8 to KPW-10; Hearing Exhibit 5 includes DDH-24 to DDH-33 (DDH 27 is a video recording); Hearing Exhibit 6 includes JTC-1 to JTC-3; and Hearing Exhibit 101a includes CWS-1 to CWS-55. Other hearing exhibits may have attachments that are not identified separately by number or may have confidential attachments.

building and an attached single story 14,377 square foot service center. Hearing Exhibit 1. The estimated cost of the Greeley Building Project is \$8.87 million, plus or minus 10 percent. Hearing Exhibit 3, DDH-6.

19. The projected \$8.87 million dollar price tag breaks down as follows: \$1,001,000 for land; \$298,000 for “design/testing”; \$350,000 for furniture, fixtures, and equipment costs; \$6,894,000 for construction; and \$327,000 for estimated city fees. Hearing Exhibit 3, DDH-6.

20. Atmos has entered into an agreement to purchase the land, and has given the seller \$10,000 in earnest money. The Company has obtained bids for architectural services, structural engineering, mechanical and electrical engineering, civil engineering, interior design, and landscape and irrigation design. Hearing Exhibit 3, DDH-13 to DDH-17.

21. Atmos seeks the Commission to issue a CPCN for the Greeley Building Project, as well as an order granting a presumption of prudence for the estimated costs of \$8.87 million, plus or minus 10 percent.² *Id.* Atmos agreed to file the Application pursuant to a Stipulation and Settlement Agreement in Proceeding No. 13AL-0496G, approved and ordered by Decision No. R14-0198 on February 24, 2014. Hearing Exhibit 103³.

22. Atmos currently leases and operates a service center and business office (office) at two separate locations in Greeley, Colorado, with annual rents of \$223,000 for both buildings. Under the current terms of the leases, Atmos pays for property taxes on the two leased buildings

² However, in its Statement of Position, Atmos argued that there should be no cost cap placed on the presumption of prudence. Atmos SOP at 20-22. This new request appears to conflict with Atmos’s request that the prudency determination give an allowance of 10 percent over the estimated cost of \$8.87 million. Because the ALJ is denying the CPCN, there is no need to address this apparent conflict.

³ In so agreeing, Atmos has plainly waived the right to argue that the Greeley Building Project is in the ordinary course of business and, therefore, that a CPCN is unnecessary.

and is responsible for all maintenance costs to the buildings.⁴ Atmos's business office is more than a mile away from its service center. Atmos argues that this makes internal business functions between Atmos employees difficult. The two buildings are leased from the same landlord; both leases on the two buildings expire on September 30, 2014.

23. The Company asserts that due to the advanced age of the current buildings, maintenance expenses are increased. Additionally, due to the change in business over time, the Company asserts that these buildings are no longer adequate for the service it provides. Atmos states that expansion of either of its current locations is not feasible due to the properties being hemmed in by residential and commercial properties, which also raises safety concerns with large vehicles exiting the service center. Further, Atmos asserts the area in which these building are located has seen a spike in crime over the past several years. The Company raises concerns about the safety of its employees and customers in the current locations.

24. Atmos argues that other benefits to the Greeley Building Project include heating and cooling efficiency improvements, proximity to current growth areas in Greeley, and long-term economic benefits of owning facilities rather than leasing.

25. Atmos provided testimony about the alternatives it considered, as well as the criteria it used to rank or eliminate alternatives. Combining the current office and service center into one location is an essential part of the Company's criteria in considering all alternatives to the Greeley Building Project. Atmos's primary focus of alternatives is a build-to-lease option, where a third party would presumably purchase the land, build the Greeley Building Project to

⁴ Atmos was not clear as to whether this amount includes property taxes it pays for the leased facilities, or any other applicable taxes.

Atmos's specifications, then lease the building to Atmos over a 20-year contract term (Option 1) or over a 25-year contract term (Option 2).

26. Below is a detailed discussion of the evidence Atmos presented in support of the Company's position.

C. The OCC's Position.

27. The OCC recommends denying Atmos's Application for a CPCN to self-build and own the Greeley Building Project. Alternately, the OCC advocates limiting rate recovery for the Greeley Building Project at 75 percent of Atmos's base cost estimate of \$8.87 million in order to create value for customers.

28. The OCC argues that the Greeley Building Project would significantly increase rates to Atmos's ratepayers. The OCC asserts that Atmos has failed to demonstrate that the Greeley Building Project is in Atmos's ratepayers' interest, in the public interest, and has failed to demonstrate that the public convenience and necessity requires approval of the CPCN. The OCC emphasizes that building and owning the new facility overwhelmingly benefits the Company, but does not benefit ratepayers or the public.

The OCC contends that Atmos's comparison of its proposed Greeley Building Project to other alternatives is flawed because it did not adequately explore the option of improving and better utilizing its current facilities, which Atmos currently leases for a fraction of the cost of the Greeley Building Project. Atmos did not make a comparison between the costs and benefits of the new facilities and continuing in the existing leased buildings. The OCC argues that this comparison would provide a solid basis for the Commission to understand the true impact on ratepayers, and whether the costs of the proposed Greeley Building Project are reasonable in light of the claimed benefits. The OCC asserts that Atmos's starting point was to present a list of

factors that it considered that appear to pre-ordain Atmos's request for approval of the Greeley Building Project.

29. The OCC's witness, Mr. Skluzak, provided a detailed critique of the costs and benefits to the Greeley Building Project. Below is a detailed discussion of the evidence the OCC presented in support of its position.

D. Governing Legal Standards.

30. Atmos, as the proponent of an order, bears the burden of proof by a preponderance of the evidence. §§ 13-25-127(1) and 24-4-205(7), C.R.S.; Rule 1500 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1. The preponderance standard requires the finder of fact to determine whether the existence of a contested fact is more probable than its non-existence. *Swain v. Colorado Department of Revenue*, 717 P.2d 507, 508 (Colo. App. 1985). A party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party.

31. Although the preponderance standard applies, the evidence must be substantial. Substantial evidence is defined as "such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion . . . it must be enough to justify, if a trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury." *City of Boulder v. Colorado Public Utilities Commission*, 996 P.2d 1270, 1278 (Colo. 2000) (internal citation omitted).

32. Under § 40-5-101(1)(a), C.R.S., a public utility must obtain a certificate from the Commission that the present or future public convenience and necessity requires, or will require, the construction of a new facility before the utility may commence construction on the facility. For the Commission to issue such a certificate, the utility must establish the following by

preponderance of the evidence: (a) a present or future need for the facility; (b) that the existing facilities are not reasonably adequate and available to meet that need; and (c) that the utility has evaluated alternatives to the proposed facility. *Pub. Serv. Co. of Colo. v. Pub. Utils. Comm'n*, 350 P.2d 543, 550-51, *cert. denied*, 364 U.S. 820 (1960); *Western Colorado Power Co. v. Public Utils. Comm'n.*, 411 P.2d 785, 791-94 (Colo. 1966); Rule 4102(b)(VII), 4 CCR 723-4; Decision No. C13-1549, Proceeding No. 12A-1264ST issued December 18, 2013, ¶13.

33. Necessity does not mean the additional facility is essential or absolutely indispensable, but that it would be an improvement justifying its costs. Decision No. C13-1549, fn.6; *see* 64 Am. Jur. 2nd Public Utilities § 164.

34. When considering whether the utility has evaluated alternatives, the Commission considers whether the utility has evaluated feasible alternatives, not all conceivable alternatives, and considers the criteria used to eliminate alternatives. Decision No. C13-1549, fn. 8; Decision No. C11-0288, ¶ 119 in Proceeding No. 09A-324E issued March 23, 2011.

35. The Commission also considers the public interest, and in doing so, it is appropriate to evaluate the impact on utility rates, and the magnitude of underlying operating, maintenance, and capital costs. Decision No. C13-1549, ¶13; *City of Boulder v. Pub. Utils. Comm'n*, 996 P.2d 1270, 1279, n.5 (Colo. 2000). Moreover, when considering the public interest, the Commission has these duties:

The primary responsibility of the Commission is to the public to insure and [to] provide adequate utility service at fair and reasonable costs. The Commission has a corollary or ancillary duty to the utilities involved to allow for and to provide reasonable rates and revenues in order that the financial integrity of such utilities be maintained and preserved, thus insuring adequate service to the public.

Decision No. R11-0752, ¶74, Proceeding No. 08A-373W issued July 12, 2011, *citing*, Commission Decision No. 62653, issued April 22, 1964, at 26 (internal quotations omitted).

36. As the Colorado Supreme Court has observed, “[i]n the exercise of ... any ... power granted to [the Commission], the interest of the public should always be given first and paramount consideration.” *Pub. Serv. Co. of Colo. v. Pub. Utils. Comm’n*, 142 Colo. 135, 147, 350 P.2d 543, 549, *cert. denied sub nom. Union Rural Electric Association, Inc. v. Pub. Serv. Co. of Colo.*, 364 U.S. 820 (1960).

37. Determining whether a facility CPCN application is in the public interest is generally based on whether the facilities are necessary to provide safe, efficient, and reliable utility service. Once the facility need is determined, the fundamental analysis is typically centered on a comparison of cost and benefits of the proposed facility with that of other feasible alternatives.

38. This proceeding is unique because the proposed facility is not a primary part of the utility function. For example, the proposed building does not generate or deliver gas, electricity, or other utility products for customers. The proposed building would house office personnel, service personnel, and equipment used by the utility to ensure its service is safe and reliable. But, the building will not function to provide the service itself (unlike many of the other CPCN applications the Commission has considered). However, the location, configuration, and operations of the proposed building facility can ultimately impact the safety and reliability of utility service. And, prudent building costs will ultimately be borne by ratepayers. Therefore, the same facilities CPCN analysis used for traditional utility facilities is appropriate here.

39. The need for space to house office personnel and a service center in Greeley is undisputed.⁵ The primary questions are: (1) whether Atmos met its burden to show that its

⁵ The OCC disputes the need for the Greeley Building Project, but asserts that the existing facilities can meet the need for working space in Greeley. See OCC SOP, at 4-14. This is not the same as disputing the need for an office and service center in Greeley.

proposed facility is necessary, and the prudent choice for the Company and ratepayers in light of other available options, weighing the costs and benefits of all reasonable alternatives that were or should have been considered, and (2) whether the approval of the CPCN is in the public interest. As discussed below, Atmos failed to adequately demonstrate the need for the Greeley Building Project, failed to show that approval of the CPCN is in the public interest, and failed to consider feasible alternatives to the Greeley Building Project.

E. Present or Future Need for the Greeley Building Project.

40. The Company must establish a present or future need *for the facility it proposes to build*. *Supra*, ¶ 33. This is not the same as establishing a present or future need for a facility to house its office personnel and a facility to act as a service center. Here, the Company has established a need for a facility or facilities to serve as an office and service center in Greeley, but the Company failed to establish the present or future need for the facility it proposes to build.

41. Atmos asserts that there is a present or future need for the Greeley Building Project because:

- the Company's current facilities are outdated and obsolete;
- the Company's facilities are located in a constrained area of Greeley;
- the current facilities pose a risk to employee safety;
- operating out of multiple facilities is inefficient; and
- at some point, operating out of current buildings will impact service reliability.

See Atmos SOP, pp. 4-9.

1. Outdated and Obsolete Nature of Current Buildings.

42. The Greeley Building Project is designed to achieve a Leadership in Energy and Environmental Design (LEED) Silver rating. The Company asserts that this will result in

savings on utility expenses. Ms. Wilkes estimated that the new LEED building should reduce the annual utility expenses by 34 to 40 percent. This estimate is based on the Company's experience with other LEED buildings and is not based upon any studies conducted.

43. The OCC argues that Atmos overstated the estimated energy savings because the Company reached that figure by comparing savings from its Texas facilities, which are inappropriately sized, and by applying the best years' data rather than using average utility expenses. Hearing Exhibit 101a, 39:16-40:6.

44. Mr. Hergenreder and Ms. Wilkes testified that the current buildings are outdated and obsolete because, during the years Atmos has operated out of the buildings, the gas utility industry has changed. For example, there was a time when customers routinely visited the business office to pay bills and to shop for appliances. Now, the frequency of in-person customer interaction has reduced (due to on-line accounts and paperless billing). Atmos no longer sells appliances. The result is that the office building is now too large for Atmos's needs.

45. In the past, the personnel housed in the office building were responsible for overseeing a smaller geographic area. The office in Greeley now serves a larger geographic area, including several statewide functions. It is unclear how this change in the Company's operation impacts the usefulness of the current business office building. Indeed, Atmos made it clear that the office building is too large for its needs; thus, the fact that the office may now serve more statewide functions does not appear to impact whether the office building serves the Company's needs. For example, the space is at least large enough to accommodate employees who serve a statewide function because, according to Atmos, the office building is too large. Atmos did not otherwise explain how the addition of statewide functions to the Greeley office has impacted the building's usefulness and availability to serve the Company's and the public's needs.

46. Moreover, accepting that the office building is too large does not lead to the conclusion that the building no longer serves the Company's needs. The Company asserted that paying rent for unused office space is not prudent. This fact, standing alone, appears reasonable. However, here, the Company proposes eliminating rent on unused office space, by greatly increasing expenses through the Greeley Building Project. Any savings that could be seen by avoiding rent payments on unused office space is well outweighed by the increased expenses resulting from the Greeley Building Project.

47. Mr. Hergenreder testified that the service center is too small for Atmos's service operations and storage. According to Mr. Hergenreder, the majority of the service center's storage issues arise out of the need to store items outside. Because the lot does not have adequate storage space and cannot be expanded upon, he believes the entire service center is inadequate.

48. Mr. Skluzak challenged the assertion that the service center is too small on the basis that Atmos could increase its storage space by utilizing common organizational options, such as vertical industrial rack shelving. A review of photos inside the service center reveals that the service center uses very few shelves for storage and organization, and that materials are strewn about the service center in a cluttered fashion. Hearing Exhibit 5, DDH-25 and 26. The lack of shelving indicates that Atmos is not utilizing all available space in the service center—by focusing only on square footage, while ignoring available cubic footage. The ALJ agrees that the use of industrial shelving in the service center would be a reasonable (and a far less costly option) to minimize the lack of available storage in the service center, and would create more floor space in the service center.

49. The buildings are 53 and 42 years old. Atmos is responsible for the cost of maintaining the buildings, as well as the property taxes for the building. Maintenance costs for the two current facilities are approximately \$45,000 per year. The buildings require maintenance that has not been performed. For example, there are problems with the office building's roof, causing leaks and water damage. Atmos has purposely not maintained the buildings for a period of at least several years. Atmos suggested that it stopped maintaining the buildings because it did not believe ratepayers would receive a benefit from Atmos paying for improvements to a building it does not own.⁶ The ALJ rejects this proffered basis and finds instead that Atmos stopped maintaining the buildings because it decided to move out of its current buildings.

50. Mr. Hergenreder testified that maintenance costs of the existing office and service center buildings would be higher than maintenance costs of the Greeley Building Project, and will continue to escalate as the buildings get older. Atmos provided only a few examples of maintenance or improvement items for the existing buildings, and while it concluded that the costs for such repairs are likely to be considerable, it neither provided estimates for such work, nor did it pursue other options, such as negotiating with the landlord for improvements in a lease extension. Hearing Exhibit 4, 13:4-20. Atmos simply did not quantify the expected savings associated with reduced maintenance with the new building. And, the record reveals no evidence to confirm or otherwise substantiate Mr. Hergenreder's testimony that maintenance costs of the existing office and service center buildings would be higher than the maintenance costs of the Greeley Building Project.

⁶ This is not a credible basis for failing to maintain the buildings because Atmos has been leasing the buildings for several decades, and has been responsible all that time for building maintenance. Under Atmos's logic, all expenditures to maintain the buildings were imprudent.

51. It is notable that while Atmos appears to heavily rely on the age of the buildings as the primary reason that continued use of the buildings is not viable, it did not offer evidence to show the impact of building age on future costs. And, the Company's decision not to pursue certain maintenance projects in the last few years has contributed to the current need for repairs. In addition, Atmos failed to present any evidence as to the costs of necessary maintenance or remodeling the buildings to suit its needs. Indeed, the evidence reveals that Atmos gave no genuine consideration to performing necessary maintenance or remodeling either existing building. The Company argued that it is not prudent to spend money to remodel a building that it does not own. Whether that would be prudent depends on any number of considerations, including the public interest.

52. The proposed Greeley Building Project would cost at least \$1.1 million per year more than extending the current leases, and Atmos expects to incur this increased level of costs for several decades. *Infra*, ¶¶ 83-84. It is difficult to imagine that one-time remodeling and repair costs could come anywhere close to the costs for the Greeley Building Project.

2. Location of Current Buildings.

53. The Company argues that the existing buildings are located in an area of Greeley that is penned in by residential and commercial properties, thereby limiting the Company's ability to expand its facilities. But, at the same time, Mr. Hergenreder testified that it is not feasible to expand the current facilities because the Company does not own the properties. This is not true. If space were available, the Company could expand its facilities by leasing additional space.

54. Mr. Skluzak responded that a nearby commercial retail store, Safeway, has recently announced that it is closing its store. The Safeway is located directly across the street

from the Company's business office. The Safeway lot includes a large parking lot. Mr. Skluzak indicated that the Safeway store is slated to close at the end of June, 2014. Mr. Skluzak advocated that Atmos should investigate whether the space utilized by Safeway may become available for Atmos's use. No Atmos witness testified as to whether the Company is aware of or has looked into the potential availability and use of the Safeway property.

55. Mr. Hergenreder testified that due to the service center's configuration and location, complex vehicle shifting must be performed to ensure that proper vehicles are ready to pull out in case of an emergency. And, depending on which vehicles arrive back from the field first and which vehicles are needed on a day-to-day basis, vehicle rearranging is often necessary. The ALJ finds that these are valid concerns with the current service center. The Greeley Building Project provides the service center with ample space to avoid the complex vehicle shifting the Company must perform at the current location.

56. Mr. Hergenreder also explained that there is not enough parking at the existing service center, forcing employees to park on the street.

57. Mr. Hergenreder complained that the area near the buildings experiences congestion and traffic.

58. The Company selected the location for the Greeley Building Project, at least in part, because it is located nine miles to the west of its current location, an area with less traffic and congestion. The Company also argues that the new location is more appropriate because it is zoned as industrial, as opposed to the current facilities (zoned as residential and commercial).

59. Mr. Skluzak countered that it makes little sense for the Company to move to the desired location. A move further west will make the service center further away from the high customer density area in Greeley, thus adding inefficiencies in the form of additional time spent

driving to service customers. Mr. Skluzak also suggested that Safeway's closing may decrease traffic and congestion.

60. The ALJ finds that Atmos did not demonstrate that the business office function is materially improved by being located outside the fully developed downtown Greeley area. To the contrary, interaction with customers may be better suited at the current office location in the heart of the residential and commercial area of Greeley, rather than the industrial area in the outskirts of town at the proposed new location.⁷ Telephone and internet communications may minimize the need for direct customer interaction, but to the extent that face to face customer interaction is necessary or desirable, Atmos did not demonstrate that the new location is preferable to the current location.

61. The service center's need for truck and materials access may make it better suited for industrial zoning at the location designated for the Greeley Building Project. However, this cannot be considered in a vacuum because the Greeley Building Project proposes moving both the service center and the business office. Although Atmos may have demonstrated improvements for the service center at the Greeley Building Project location, it did not demonstrate that the business office function would benefit from an industrial zoning location. Since the business office does not have a need for truck access or warehousing, the current commercial zoning may be more appropriate than an industrial zoning.

62. In addition, the ALJ does not find traffic and congestion to be a reasonable basis to move to a different location. Traffic and congestion is not unusual. Eventually, the area

⁷ The business office receives approximately 160 customer visits per month. Hearing Exhibit 101a, 18:3-4.

proposed for the Greeley Building Project may face the same level of traffic and congestion, if, as Atmos argues, it is an area experiencing large growth and development.

3. Risk to Employee Safety at Current Buildings.

63. Mr. Hergenreder testified that the existing service center configuration requires large service vehicles to back out into traffic when leaving the service center, thereby requiring employees to stop traffic, creating safety concerns. *See* Hearing Exhibit 3, DDH-20; Hearing Exhibit 5, 5:1-13; *Id.* at DDH-24 and DDH-27. According to Mr. Hergenreder, not all vehicles can be placed in the service center's existing pull-through bay, requiring vehicles to be backed out onto the street. As the video recording in Hearing Exhibit 5, DDH-27 demonstrates, many of the larger vehicles must be backed out into the road from the Company's back parking lot, and not from the drive-through bays.

64. The Company's concern with employees stopping traffic to allow vehicles to back out onto the road is a primary reason the Company seeks to move the service center. The Greeley Building Project is designed to include sufficient space to move large vehicles through the property without requiring employees to stop traffic.

65. Mr. Skluzak questioned the company's practice of stopping traffic to allow large trucks to pull out onto the street. Mr. Skluzak opined that the Company's trucks could pull straight into the backside of the drive-through bays of the service center head first, and drive through without the need to stop traffic. He also suggested that Atmos hire police officers to aid with stopping traffic so that the Company's employees will no longer have to play that role.

66. Mr. Hergenreder also testified that the current facilities are located in an area experiencing increased criminal activity; Atmos argued that this poses additional safety concerns

for its employees. Atmos asserted that the only way to address the criminal activity is to move the building to a different area entirely.

67. The OCC disagreed with Atmos that downtown Greeley crime rates are a material consideration in determining whether to move from its existing facilities, and disputes evidence Atmos provided (crime event area map) to indicate frequency of crime in the area (arguing that the map fails to state a period over which crime events are recorded.). Hearing Exhibit 3, Confidential DDH-18 (crime event area map). As a point of comparison, the OCC argued that the crime rate in Greeley is lower than the Denver crime rate and the national average. Hearing Exhibit 101a, 43:2-4.

68. While it is desirable to be in an area that has lower crime rates, there are many reasonable (and far less costly) options to address safety concerns, such as possibly hiring security guards, adding security fencing or security cameras. Atmos has not quantified the costs that are necessary to take reasonable steps to protect the current facilities as a comparison to the Greeley Building Project or other alternatives. Further, although the crime event map indicates more crime activity near the current facilities than at the proposed location, it lacks specificity as the OCC contends, and does not provide a comparison with other cities or benchmarks to quantify the level of risk associated with the Greeley crime rates. Hearing Exhibit 3, Confidential DDH-18.

4. Inefficiencies of Operating Out of Two Buildings.

69. The Greeley Building Project is premised on the assumption that the Company must combine its business office with its service center. Mr. Hergenreder testified that this is because Atmos believes operating out of multiple facilities creates inefficiencies.

70. Mr. Hergenreder pointed to several examples of inefficiencies which would be resolved by combining the two buildings. For example, in-person trainings create inefficiencies because some employees must travel a mile to the other building. In addition, the Company's field support analyst works out of the office building, but often must travel to the service center to fix equipment. Mr. Hergenreder testified that the Company loses employee time when they have to drive the one mile between buildings.

71. Mr. Hergenreder also testified that having the employees work out of separate buildings creates a division between them, and a misunderstanding of their contributions and roles. He believes customer service would be improved if the employees had a better appreciation of each other's roles and contributions, and if they are able to easily contact each other by being in the same building.⁸

72. The OCC challenged the Company's conclusion that the Greeley Building Project is the prudent solution to the inefficiencies described above. For example, it is undisputed that employees in both buildings have access to telephones and computers, which enables the employees to communicate efficiently from their current locations. Mr. Skluzak attacked the Company's position that the buildings must be combined, based upon the Company's decision not to combine similar facilities (under similar circumstances) in Durango, Colorado. Further, Mr. Skluzak asserted that even if the buildings were combined, Atmos would still have other service centers in Meeker, Craig, and Steamboat operating separately from the business office, which raises questions about the extent of any benefit from consolidating only the Service Center in Greeley.

⁸ Atmos believes that other efficiencies will result from the Greeley Building Project, including heating and cooling efficiency improvements, proximity to current growth areas in Greeley, and long-term economic benefits of owning facilities rather than leasing. None of these benefits were quantified to show a benefit to ratepayers.

73. While the OCC conceded that combining functions into one building could potentially reduce inefficiencies, the benefits cannot be fully understood because Atmos did not adequately demonstrate the impact of such benefits. The OCC asserted that any such benefits would not make a material impact to justify the costs of the Greeley Building Project. Hearing Exhibit 101a, 22:15-25:9.

74. The ALJ agrees with the OCC that the Company ignores the fact that modern conveniences (telephones and computers) may help address some of the inefficiencies identified. For example, employees can call each other to communicate. For face-to-face interactions, employees could utilize cheap computer technology that allows for video conferencing. Employee education can also go a long way to give them a better understanding of their mutual contributions and roles.⁹ These are far more cost-efficient methods of addressing several of the inefficiencies related to the service center and office being in separate buildings.

75. Notably, the record is devoid of a quantified analysis of inefficiencies caused by the functions being housed in separate buildings. The Company argues it did not quantify the inefficiencies because it is not possible to do so. The ALJ disagrees. At least some of the inefficiencies can be quantified. The Company does provide, in several instances, figures relating to the number of employee hours lost due to inefficiencies, but it does not quantify those numbers into figures demonstrating the financial losses to ratepayers. *See* Hearing Exhibit 5, 3:14 - 4:22.

76. The ALJ concludes that any savings from the synergies associated with combining the current office and service center would likely not have a material impact when

⁹ Being located in the same building offers no guarantee that employees will better understand each other's roles and contributions.

compared with the approximate \$1.3 million annual revenue requirement associated with the Greeley Building Project.¹⁰ Indeed, the Greeley Building Project, while potentially reducing inefficiencies, will result in a considerable increase in the Company's expenses, thereby eliminating any financial benefit of reducing the identified inefficiencies. While the necessity element of a CPCN does not require the additional facility to be essential or absolutely indispensable, the facility should be an improvement justifying its costs. Decision No. C13-1549, fn.6; *see* 64 Am. Jur. 2nd Public Utilities § 164. The ALJ finds that the Company showed only a potentially negligible improvement to be gained by housing the employees in one building (through the Greeley Building Project).

5. Service Reliability.

77. Atmos argues that if it continues to operate in the current buildings, there will come a point where the reliability of service will come into issue. The record is devoid of quantified evidence concerning: (a) present or future reliability issues based upon operating out of the current buildings, (b) any study of present or future reliability issues with respect to continuing operating out of these buildings, and (c) any analysis of present or future reliability issues relating to operating out of the current buildings. *See e.g.*, Decision No. R11-1344, ¶¶ 242-244, in Proceeding No. 11A-226E issued December 14, 2011. Atmos could have and should have presented quantified evidence -- developed before it decided to purchase land and build a new facility (*i.e.*, analysis used to support its decision to pursue the Greeley Building Project before it filed the Application seeking authorization) -- to support its reliability claims. The fact that it did not leads the ALJ to conclude that service reliability did not play a significant

¹⁰ Hearing Exhibit 2, KPW-4, line 17, shows the Greeley Building Project revenue requirement to be approximately \$1.3 million for at least the first ten years.

role in Atmos's decision to seek authorization to construct the Greeley Building Project. And, in any event, Atmos also did not provide qualitative or quantitative evidence showing that service reliability is or will be threatened by continuing to stay in the existing buildings. Accordingly, the ALJ gives little weight to this asserted basis for the need for the Greeley Building Project.

6. Conclusion as to Present or Future Need for Greeley Building Project.

78. The ALJ has considered the evidence presented as a whole. In other words, the ALJ has considered all the factors that Atmos argues support the Project, together and in light of the combined effect of said factors on the Company and the ratepayers.

79. In determining whether Atmos met its burden to show by a preponderance of the evidence that the present or future public convenience or necessity require the Greeley Building Project, the ALJ gives paramount consideration to the public interest. *See Pub. Serv. Co. of Colo. v. Pub. Utils. Comm'n*, 142 Colo. at 147. In so doing, it is helpful to evaluate the evidence relating to the impact on utility rates, and the magnitude of underlying operating, maintenance, and capital costs. *See* Decision No. C13-1549, ¶13; *City of Boulder v. Pub. Utils. Comm'n*, 996 P.2d at 1279, n.5.

80. An accurate rate adjustment or rate impact is unknown because Atmos's estimated rate impact does not include costs for higher taxes, an estimate of the regulatory costs the Company will attempt to recover for the Greeley Building Project, expenses to move and relocate to the Greeley Building Project, estimated ongoing maintenance costs for the Greeley Building Project, and estimated expenses to operate out of the Greeley Building Project.¹¹ The

¹¹Atmos witness Mr. Christian testified that the Company could have determined the total rate impact by adding variables such as estimated property taxes and utilities and deducting anticipated savings and current utilities, property taxes and rent. 5/28/14 Tr. 146:25-147:9. The Company chose not to gather and use such information in its analysis. *See* 5/28/14 Tr. 147:11-148:5; *see also*, Hearing Exhibit 2, KPW-4 and KPW-5.

addition of those costs may increase the estimated proposed rate adjustment for the Greeley Building Project.

81. Atmos argued that it would be waste of resources to have provided a comparative analysis of the costs to continue in the existing buildings and the costs of the Greeley Building Project because staying in the existing buildings is not a viable option. However, the Company forgets that an analysis of whether the Greeley Building Project is in the public's best interests, includes consideration of the impact on utility rates, and the magnitude of underlying operating, maintenance, and capital costs. *See* Decision No. C13-1549, ¶13; *City of Boulder v. Pub. Utils. Comm'n*, 996 P.2d at 1279, n.5.

82. Although Atmos has not provided a full assessment of ratepayer cost impacts, Hearing Exhibit 2, KPW-4 and KPW-5 can be used to gain an understanding of the magnitude of the cost impacts imposed by the Greeley Building Project.¹² These exhibits show annual revenue requirements for the Greeley Building Project for the first ten years to be approximately \$1.3 to \$1.4 million per year. Hearing Exhibit 2, KPW-4 line 17, KPW-5 line 17. At hearing, Ms. Wilkes estimated that future lease costs for the existing buildings may be in the range of \$200,000 to \$223,000 per year.¹³ 5/28/14 Tr., 50:6. Atmos does not provide an estimate for the annual maintenance costs that it would incur if it renews the lease for the existing buildings.¹⁴ Assuming those costs are at least \$45,000 (current average maintenance expenses), this rough comparison shows that the Greeley Building Project will produce a net incremental cost increase

¹² At hearing, Atmos witness Mr. Christian clarified that the title of Hearing Exhibit 2 KPW-4 incorrectly states that KPW-4 includes the additional 10 percent contingency. KPW-5 includes the 10 percent contingency, but KPW-4 does not. 5/28/14 Tr., 92:16-93:13.

¹³ The record is unclear to whether these projected costs include property taxes that the Company has traditionally been responsible for paying.

¹⁴ Atmos witness Ms. Wilkes estimated an annual energy savings of up to \$26,000 due to the LEED certified Greeley Building Project, but does not provide estimates for other maintenance costs.

to consumers of approximately \$1.1 million per year if costs are consistent with the \$8.87 million dollar estimate. Hearing Exhibit 2, KPW-4 line 17. And, if the Greeley Building Project exceeds the initial estimate by 10 percent, thereby costing \$9.75 million, the Company estimates the total proposed rate adjustment to be in excess of \$1.4 million annually for at least the first ten years. Hearing Exhibit 2, KPW-5, line 17. Again, not all costs relating to the Greeley Building Project are included. But, savings in maintenance costs compared with the current buildings are also not included. In any event, this approximation reveals the magnitude of the increased costs the ratepayers would bear if the Greeley Building Project were approved.

83. This approximate comparison shows more than a four-fold increase in annual costs. Although Atmos has not quantified the additional costs to maintain the current buildings and upgrade them to a reasonable level, the evidence has failed to show that the various benefits touted by Atmos would come close to justifying the minimum \$1.1 million per year increase to ratepayers for the Greeley Building Project.

84. The Commission's duty to the public includes ensuring that adequate utility service is provided at fair and reasonable costs. Decision No. R11-0752, ¶ 74 *citing*, Commission Decision No. 62653, issued April 22, 1964, at 26.

85. Atmos did not provide credible evidence showing: its service reliability has been, is or will be impacted due to its current facilities, that its service reliability will be improved as a result of the Greeley Building Project, or that the Greeley Building Project is necessary to provide safe, efficient, and reliable utility service. Therefore, the ALJ finds that the Greeley Building Project will not materially improve public safety or system reliability.

86. While the necessity element of a CPCN does not require the Greeley Building Project to be essential or absolutely indispensable, it should be an improvement justifying its

costs. Decision No. C13-1549, fn.6; *see* 64 Am. Jur. 2nd Public Utilities § 164. The ALJ finds that the Company showed only a potentially negligible improvement by the Greeley Building Project, which does not justify its costs.

87. Nevertheless, the ALJ acknowledges that the Company's current facilities present some legitimate difficulties. In particular, the poor configuration of the service center, requiring employees to stop traffic for vehicles to back out, is a valid issue.¹⁵ Even so, the Company did not offer evidence about any instances where those issues impacted the Company's service. In any event, the problem lies with the Company's proposed solution to the service center's problem. Rather than seeking out a more cost-efficient solution, such as relocating only the service center, the Company proposes to *combine* the office and service center into one facility at a cost of approximately \$8.87 million (or more). Although the ratepayers will bear that cost, the evidence has shown that the potential benefit to the ratepayer is, at best, negligible. Ultimately, while there are some valid issues with the service center, that does not establish by a preponderance of the evidence that there is a present or future need for the Greeley Building Project, or that the improvement to be offered by the Project would justify its costs.

88. Moreover, while the majority of issues with the office building present annoyances, they do not rise to the level of rendering the building inadequate to the point that it no longer meets the Company's needs. It may not be perfectly suited for the Company's current operation, but that does not render it inadequate. Nor do the issues with the office building establish that there is a present or future need for the Greeley Building Project. Instead, the

¹⁵ As discussed in more detail below, other alternatives must be investigated to find a reasonable resolution to the service center constraints. *Infra*, ¶¶ 101-104.

evidence indicates that the Company wants, but does not need the Greeley Building Project to provide safe, efficient, and reliable utility service.

89. Because there has been little quantified benefit shown to the ratepayers, the ALJ cannot conclude that the Greeley Building Project is in the public interest or that it is an improvement which justifies the cost. When viewing the evidence as a whole, the ALJ concludes that the Company has failed to meet its burden to prove by a preponderance of the evidence that there is a present or future need for the Greeley Building Project.¹⁶

90. Since the ALJ finds that Atmos failed to meet its burden to show there is a present or future need for the Greeley Building Project, it is not necessary to consider whether the Company met its other burdens for approval of a CPCN. However, in the interests of providing the Commission a complete Decision, the ALJ will evaluate the remaining legal factors in relation to the evidence presented.

F. Adequacy and Availability of Existing Facilities to Meet Needs.

91. As to adequacy of the existing facilities, Atmos cites to the same factors discussed above. The ALJ will not repeat the discussion of those factors. For the same reasons discussed above, the ALJ finds that Atmos has failed to show by a preponderance of the evidence that the existing buildings are inadequate to meet its needs.

92. As to availability, Atmos has intentionally neglected to discuss the possibility of renewing or extending the leases on the current buildings with its landlord. Ms. Wilkes made this clear. However, it is undisputed that even if the Company's Application were immediately approved, the new building would not be ready for the Company's use by the time the leases expire

¹⁶ The ALJ views "need" as an improvement justifying its costs and not "absolutely indispensable," which is consistent with the proposal to replace existing buildings that currently fulfill the need.

on September 30, 2014. Given this, it is remarkable that the Company intentionally failed to discuss any future lease terms with the landlord. Such evidence may have been compelling to show that the current buildings are unavailable if the landlord would not extend the leases, or if new leases were offered at substantially unwieldy terms. The Company's failure to pursue this evidence (which would have been easy to gather), speaks volumes.

93. Nevertheless, Ms. Wilkes also testified that she is aware of a five-year lease option for both of the buildings, and that she is confident the landlord will permit the Company to lease the buildings on a month-to-month basis.

94. Ultimately, Ms. Wilkes's establishes by a preponderance of the evidence that both of the existing buildings are likely to be available for future use by the Company.

95. As a result, the ALJ finds that Atmos failed to meet its burden to show by a preponderance of the evidence that the existing buildings are both inadequate and unavailable.

G. Evaluation of Alternatives to Greeley Building Project.

96. As stated above, to meet its burden of proof, Atmos must also show, by a preponderance of the evidence, that it evaluated alternatives to the Greeley Building Project. Rule 4102(b)(VII), 4 CCR 723-4. Under Rule 4102(b)(VII), Atmos must provide "information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate alternatives." The Company is only required to evaluate feasible alternatives.

97. Atmos states that the criteria it used to rank or eliminate alternatives include: accommodation of an office space and service center, as well as parking and storage at one site; location within the city limits of Greeley; level of traffic and congestion at or near the alternatives; industrial zoning requirements in the alternatives' area; whether the alternatives

meet the continuing needs of Atmos and its customers; the long term viability of the alternatives; and the total cost of the alternatives and value to customers.

98. Crucial to Atmos's ranking of the alternatives is that it must combine an office space with the service center.

99. Atmos considered the following alternatives to the Greeley Building Project: (1) having a third party construct the very same facility it proposes as the Greeley Building Project, and leasing it to Atmos; and (2) other available lots for the Greeley Building Project location.

100. Mr. Hergenreder also testified that the Company considered entering into new leases for its current space. Hearing Exhibit 3, 8:19-20. The evidence indicates otherwise. For example, Atmos had no discussions with its landlord to determine terms for entering into new leases for the current space. Atmos did not perform a quantitative cost analysis comparing the Greeley Building Project and the current leased Greeley buildings to determine cost justification. Atmos did not perform a study, nor engage in inquiries, to determine what the costs would be to remodel or perform necessary maintenance on the existing Greeley business office and service center buildings. Given this, the ALJ gives no weight to Atmos's assertion that it considered renewing the leases on the current buildings.

101. Although Atmos witnesses testified that the Company did consider leasing other existing buildings, the record reveals very little information on leasing alternatives the Company

considered.¹⁷ No witness testified about any specific leasing alternatives considered.¹⁸ Instead, Atmos witnesses merely testified that there are no currently existing buildings for lease that are, as Ms. Wilkes testified, “absolutely perfect” for its needs. 5/28/14 Tr., 57:11-14. The record is devoid of facts to support this conclusion.

102. Mr. Skluzak challenged Atmos’s consideration of alternatives. He explained that Atmos has several other, more reasonably priced options that it simply did not consider. For example, Atmos could lease a separate warehouse for storage, lease or build a new facility just for the service center, lease or purchase a building just for trucks and storage, or lease an empty lot for storage or outdoor items. Mr. Skluzak contended that all of these options have simply been ignored, although they would address the service center problems at a cost far less than the potential \$9.75 million cost of the Greeley Building Project.

103. The ALJ concludes that because Atmos determined that the office and service center must be in the same building, it did not consider the above options, nor did it consider leasing a smaller office space. In so doing, the Company essentially posits that none of the above options are viable because none of them meet the Company’s criterion to combine the office and service center. The Company’s criterion that the office and service center must be combined is its fatal flaw. *Supra*, ¶¶ 76-77, and 88. In relying on this fatal criterion, the Company improperly excluded from consideration viable alternatives.

¹⁷ Atmos offered an email from a realtor stating that “most of our existing buildings which might fit their needs have been absorbed by the oil and gas companies.” Hearing Exhibit 7, p. 6. The email does not make reference to leasing buildings. And, it attaches several listings for the *purchase* of lots and buildings. The referenced page of the exhibit is the 6th page of the multi-paged exhibit (which is not sequentially numbered).

¹⁸ The real estate listings in Hearing Exhibit 3 DDH-10 and 12 appear to show lease options in addition to the sale terms, but Atmos did not provide testimony that lease options were fully investigated.

104. Atmos submitted evidence concerning five properties available for purchase that it considered. Hearing Exhibit 3, DDH-7 to DDH-11. All five of those alternatives include the purchase of real property. However, only two of those alternatives include buildings that are already constructed. *Id.* at DDH-8 and DDH-10. Atmos provided no cost estimates for remodeling those buildings to suit its needs (assuming some remodeling would be necessary). These alternatives were eliminated because they did not meet the stated criteria, but it may be possible that these properties could be feasible as a replacement for the service center only. But, the Company also did not consider this alternative.

105. Atmos's primary study of alternatives is to have a third party construct the very same facility it proposes as the Greeley Building Project, and leasing it to Atmos. Presumably, the third party would have to purchase the land, or enter into some lease arrangement to use the land. This alternative, unsurprisingly, is more costly than the Greeley Building Project. The Company uses the inflated cost of the build-to-lease option to argue that the Greeley Building Project offers savings to the ratepayer.

106. The OCC argues that the third party build-to-lease option is not materially different than Atmos building and owning the facilities, and that this option is a "straw man" in an attempt to create the appearance that the Greeley Building Project is a cost efficient option. Given this, the OCC argues that the primary comparison should be made between the cheaper current facilities and the Greeley Building Project.

107. The undersigned agrees with the OCC that the build-to-lease option is not materially different from the Greeley Building Project. The potential annual revenue requirement for the Greeley Building Project is approximately \$1.3 million for the first ten years. Hearing Exhibit 2, KPW-4, line 17. A proposed annual increase of \$1.1 million over current

facility costs, a quadruple increase in costs, warrants a thorough investigation of other viable alternatives. Atmos failed to do this. *Supra*, ¶¶ 101-104. Atmos narrowly focused on its proposed Greeley Building Project and excluded consideration of other viable alternatives. *Id.* For the foregoing reasons, the ALJ concludes that Atmos failed to demonstrate by a preponderance of the evidence that it considered viable alternatives to the Greeley Building Project.

H. Conclusion.

108. For the above reasons and authorities, the ALJ concludes that Atmos failed to meet its burden to demonstrate by a preponderance of the evidence that the present or future public convenience and necessity requires or will require the Greeley Building Project, that both existing buildings are not adequate or available to meet the Company's needs, and that Atmos failed to consider or evaluate viable alternatives.¹⁹ The ALJ also concludes that granting the Application is not in the public interest. Based on the above, the CPCN Application is denied.

109. Because the ALJ is denying the Application, Atmos's request for a presumption of prudence for costs associated with the Greeley Building Project is denied as moot.

110. Pursuant to § 40-6-109, C.R.S., the Administrative Law Judge recommends that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. Atmos Energy Corporation's (Atmos) untimely Post-Hearing Statement of Position is accepted.

¹⁹ In reaching this conclusion (and rendering this Recommended Decision), the ALJ has considered all arguments and evidence presented by the parties, including those not specifically discussed herein.

2. Atmos's Application for an Order Granting It a Certificate of Public Convenience and Necessity to Implement the Greeley Building Project is denied, consistent with the above discussion.

3. Atmos's request for a presumption of prudence for costs associated with the Greeley Building Project is denied as moot.

4. Proceeding No. 14A-0153G is closed.

5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director